Friday,
3rd December, 1954

# LOK SABHA DEBATES

## VOLUME VIII, 1954

सत्यमेव जयते

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## EIGHTH SESSION, 1954

LOK SABHA SECRETARIAT
NEW DELHI

# LOK SABHA DEBATES

Acc. No. 25357
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## (Part I—Questions and Answers)

## LOK SABHA

*Friday, 3rd December, 1954*

*The Lok Sabha met at Eleven of the Clock.*

[MR. SPEAKER *in the Chair*]

## ORAL ANSWERS TO QUESTIONS

### STATE FINANCIAL CORPORATION ACT

***687. Sardar Hukam Singh:** Will the Minister of **Finance** be pleased to state:

(a) the names of the State Governments that have set up corporations under the State Financial Corporation Act, 1951 so far; and

(b) the percentage of the issued capital that has been contributed by the Reserve Bank of India?

**The Deputy Minister of Finance (Shri A. C. Guha):** (a) and (b). A statement containing the required information is placed on the Table of the Sabha. [*See* Appendix III, annexure No. 56.]

**Sardar Hukam Singh:** From the statement it is found that six out of ten Part A States and three out of eight Part B States have so far formed these Corporations. May I know whether there are any special reasons why other States are not coming up?

**Shri A. C. Guha:** Almost all the other States are submitting their schemes. In some cases the scheme is under consideration; often the scheme is sent back for revision. Almost all the States are taking steps to form Corporations.

**Sardar Hukam Singh:** May I know whether any Part C State has joined with the neighbouring State for forming a Corporation?

**Shri A. C. Guha:** Some of the Part C States have been asked to join with some other Part A or Part B States; but I do not think it would be possible for all the Part C States to join with the adjacent bigger States.

**Sardar Hukam Singh:** May I know whether any Central loan has been given to any State for financing this Corporation?

**Shri A. C. Guha:** A sum of Rs. 2½ crores has been allocated as Central loan to these State Financial Corporations, of which Rs. 1 crore 75 lakhs has been earmarked for this year and three States have so far taken advantage of this loan.

### अतिरिक्त सामान का बेचा जाना

***६८८. श्री एम० एल० द्विवेदी :** क्या रक्षा मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या सरकार सभा पटल पर एक विवरण रखेगी, जिसमें यह बताया गया हो कि किन किन आर्डिनेंस डिपो तथा अन्य स्थानों पर कितना कितना ऐसा माल व सामान है, जिसे सेना की आवश्यकता से अधिक घोषित कर दिया गया है ;

(ख) इस सामान और माल में से कितना ऐसा है जिसको सरकार ने बेचने के लिये उत्सर्जन (डिसपोजल) विभाग को सौंप दिया है ;

(ग) इस सामान का स्वरूप क्या है; और

(घ) क्या कारण है कि उत्सर्जन विभाग इतने समय से इस को नहीं बेच सका ?

**The Deputy Minister of Defence (Shri Satish Chandra):** (a) to (c). The lists of surplus items in all

Depots will cover many pages and a wide variety of stores. It is considered that the expenditure of time and effort on the preparation of these detailed lists for laying on the Table of the House will not be commensurate with the object to be achieved. The goods cover a wide variety of stores, engineering, general and vehicles. The proportion declared to DG Disposals varies from month to month. The total book-value of surpluses unsold, as on 1st November 1954, is approximately Rs. 30 crores.

(d) The procedure in the DGS & D in regard to circulation of lists etc. to priority indentors and State Governments led to a certain amount of delay. Recently steps have been taken to amend the procedure to expedite disposals and these steps are expected to produce very good results.

**श्री एम० एल० द्विवेदी** : क्या यह सत्य है कि फौज का जो सर्प्लस माल है वह दो तीन साल से अधिक हो जाने पर भी डिस्पोज आफ नहीं हो पाया है ? मैं जानना चाहता हूं कि जो प्रोसीजर बनाया जा रहा है, उसमें कितनी जल्दी काम हो जाने की आशा है ?

**श्री सतीश चन्द्र** : ऐसा कुछ सामान हो सकता है जो कई सालों से पड़ा हुआ ह और अभी तक डिस्पोज नहीं हो पाया है, लेकिन उसकी डिटल्स मैं नहीं दे सकता । अगर आप वर्क्स हाउसिंग एण्ड सप्लाई मिनिस्ट्री से प्रश्न करें तो आप को पता चल सकेगा लेकिन पहली नवम्बर को जो ३० करोड़ की लागत का सामान था उस में से, जो फिगर्स मेरे पास हैं उन के अनुसार, २१ करोड़ ७५ लाख रुपये का सामान सन् १९५४ में डिक्लेअर हुआ है । इसलिये उस में कुल ८ या ९ करोड़ का सामान पिछले साल से चला आ रहा है ।

**श्री एम० एल० द्विवेदी** : क्या माननीय मंत्री महोदय बता सकेंगे कि पिछले साल के बचे हुए माल में से कितना डिस्पोज आफ हो चुका है और कितना अभी बाकी है ?

**श्री सतीश चन्द्र** : जैसा मैं ने अर्ज किया कि ३० करोड़ रुपये का सामान बाकी है । अप्रैल सन् १९५४ से अक्तूबर सन् १९५४ तक करीब ९ करोड़ रुपये का सामान डिस्पोज आफ हुआ है।

**Shri T. B. Vittal Rao:** May I know whether one of the reasons why such surpluses are obtaining in ordnance depots is that while indenting for fresh material, the indent is placed 10 per cent. more than the actual requirements?

**Shri Satish Chandra:** It is not a fact. Most of these surpluses have accumulated from war-time. Large purchases were made during the last war and after its termination they became surplus to our requirements.

### DEVELOPMENT OF MILITARY EQUIPMENT

***689. Shri Krishnacharya Joshi:** Will the Minister of Defence be pleased to state whether there is any scheme for technical development of the production of aircraft, military weapons and other requirements for military purposes under consideration of Government?

**The Deputy Minister of Defence (Shri Satish Chandra):** There are a number of schemes under consideration by Government for the development and manufacture of military weapons and equipment. It is not in public interest to disclose the details of these schemes.

**Shri Krishnacharya Joshi:** May I know whether any foreign technical advice is sought in this matter?

**Shri Satish Chandra:** If local talent is not available for starting new enterprises, foreign technicians have to be brought in.

**Shri Krishnacharya Joshi:** Is there any proposal to manufacture model weapons?

**Shri Satish Chandra**: The policy of Government is to attain self-sufficiency in the matter of weapons and equipment as far as possible, but it all depends upon the general industrial development of the country.

**Several Hon. Members** *rose*—

**Mr. Speaker:** All the information that the hon. Members are likely to get is of a very general nature; it would not further the knowledge of the House. As he has already said, it is not in the public interest to disclose the information.

IMPERIAL WAR GRAVES COMMISSION

***692. Shri S. N. Das:** Will the Minister of **Defence** be pleased to state:

(a) whether any scheme for building memorials and permanent cemeteries for servicemen and merchant seamen of undivided India who fell in world war II has been finalised by the Imperial War Graves Commission and accepted by India and Pakistan;

(b) if so, the important features of such a scheme;

(c) the estimated expenditure involved in the scheme; and

(d) how that will be shared between India and Pakistan?

**The Deputy Minister of Defence (Sardar Majithia)**: (a) Yes.

(b) The main feature is that the name of each individual serviceman who died in the war is recorded and in this matter complete equality of treatment to all races, creeds and clauses is ensured. Each grave is marked with a permanent stone or memorial and the particulars of the deceased are engraved thereon. The names of the Indian soldiers who were cremated in accordance with their religious rites are engraved on 18 specially designed memorials in appropriate cemeteries. The names of the missing dead are engraved on special memorials, of which the particulars are given below:—

(i) Those from the Navy—at Bombay and Chittagong;

(ii) Those who belonged to the Army—on memorials in operational areas, such as at Alamein, Rangoon and Singapore;

(iii) Those who belonged to the Air Force are commemorated in memorials at Alamein, Singapore and Runnymaeade;

(iv) The Merchant Navy Personnel—at Tower Hill, London, Bombay and Chittagong;

(v) Members of the Armed Forces of undivided India, who died in non-operational areas are being commemorated in Delhi and Karachi War Cemeteries.

(c) The estimated expenditure is £7,000,000.

(d) The proportion of this sum attributable to undivided India is 5·42 per cent. of which by agreement between the Government of India and Pakistan 3·63 per cent. is payable by India and 1·79 per cent. by Pakistan.

**Shri S. N. Das:** May I know what is the basis on which this estimated expenditure has been apportioned between India and Pakistan?

**Sardar Majithia:** It is 70 per cent. and 30 per cent. which roughly represents the ratio in which the assets were divided.

**Shri S. N. Das:** I want to know the basis.

**Sardar Majithia:** I have already said it is the basis on which the country was divided.

**Shri S. N. Das:** May I know what are the forms of memorials that will be erected in Delhi?

**Sardar Majithia:** I have not quite understood the question. I have already said that some stones are put up. Apart from that, certain structures go up; one of them is the India Gate which is also a war memorial.

**Shri S. N. Das**: May I know the total number of Indian personnel for whom these memorials are going to be constructed?

**Sardar Majithia**: I am afraid I have not got these figures with me.

### SETTLEMENT IN ANDAMANS

***695. Shri Bhagwat Jha Azad**: Will the Minister of **Home Affairs** be pleased to state:

(a) the total number of persons sent since 1948 from India (mainland) to Andamans for settlement;

(b) the acreage of forest that has been cleared for the settlement of new families to be sent; and

(c) the name of the island among the three main islands where maximum number of persons have been settled?

**The Deputy Minister of Home Affairs (Shri Datar)**: (a) So far, 3,666 persons have been sent to the Andamans and settled there.

(b) Five hundred acres have already been cleared and another 2,000 acres are under various stages of clearance for taking settlers during 1955.

(c) Middle Andaman.

**Shri Bhagwat Jha Azad**: May I know how many families have returned after being settled there, and what were the reasons that were advanced for their so doing?

**Shri Datar**: About 99 families were repatriated because they could not suit themselves to the conditions there.

**Shri Bhagwat Jha Azad**: May I know whether Government have made any assessment as to how many families can be settled there without in the least harming the available timber forest?

**Shri Datar**: According to the plan which the Government have before them, they want to settle 4,000 families during the five years.

**Shri Bhagwat Jha Azad**: Is it a fact that those who are already in the Andamans have requested the Government to send families from different parts of the country, and yet families from only one State are being sent, which they have resented?

**Shri Datar**: That is not correct. What the Government are doing is that they have been opening opportunities to a certain extent to other States also, and accordingly, some families from Travancore-Cochin have already gone there and some are likely to go from Madras and Bombay.

**Shri A. M. Thomas**: May I enquire how many of these persons represent refugees and how many non-refugees?

**Shri Datar**: 75 per cent. are the refugees from East Bengal.

### DISTRICT MAGISTRATES

***697. Th. Lakshman Singh Charak**: Will the Minister of **States** be pleased to state:

(a) whether it is a fact that the District Magistrates of the various districts in Jammu and Kashmir cannot issue All India Licences under the Indian Arms Act;

(b) whether it is also a fact that all the District Magistrates in Parts A, B and C States can issue Licences; and

(c) if so, whether Government consider the desirability of treating Jammu and Kashmir on par with other States in this regard?

**The Deputy Minister of Home Affairs (Shri Datar)**: (a) Yes.

(b) Yes; except in Jammu and Kashmir State.

(c) The matter is receiving consideration.

**Th. Lakshman Singh Charak**: What are the difficulties in the way of Government deciding this matter?

**Shri Datar:** At first the Indian Arms Act was made applicable and the question is when the Indian Arms rule should be made applicable. That matter is being taken up with the Jammu and Kashmir Government and will be considered very soon.

**Th. Lakshman Singh Charak:** In view of the fact that people from Jammu and Kashmir come for business or sport to other parts of India and they find it very difficult to bring their own arms, will Government consider the desirability of deciding this matter soon?

**Shri Datar:** That question also will be decided.

**Shri Bhagwat Jha Azad:** In reply to part (b), the hon. Minister has stated that District Magistrates in Parts A, B and C States are allowed to issue licences. May I know from the Minister whether it is within his knowledge that the persons who apply for licences in the Parts A, B and C States find that the procedure is cumbersome and there is great delay and they cannot get the licences?

**Shri Datar:** That is entirely a different question. It does not deal with Kashmir. But I would point out to the hon. Member that all attempts are being made to expedite the issue of these licences as early as possible.

## MANUFACTURE OF JET ENGINES

***699. Shri T. B. Vittal Rao:** Will the Minister of Defence be pleased to state:

(a) whether any agreement has been arrived at with any foreign firm for the manufacture of Jet Engines and Tanks in India; and

(b) if so, the terms of the agreement?

**The Deputy Minister of Defence (Shri Satish Chandra):** (a) No.

(b) Does not arise.

**Shri T. B. Vittal Rao:** May I know if it is a fact that some experts of a British firm of Leylands who visited our country sometime in October went round the country? If so, have they submitted any report?

**Shri Satish Chandra:** Several teams come here in connection with setting up of new industries. It is difficult to discuss details on the floor of the House.

**Shri T. B. Vittal Rao:** May I know if this particular venture was discussed when the Secretary of the Defence Ministry went to England recently?

**Shri Satish Chandra:** He discussed many things.

**Mr. Speaker:** The point is whether this was one of them.

**Shri Satish Chandra:** Which one? Sir, I said nothing has been finalised. That is the answer to the main question, and this does not arise.

**Shri T. B. Vittal Rao:** The question is whether the manufacture of jet engines was discussed in England with any firm by the Secretary of the Defence Ministry when he visited England recently?

**Shri Satish Chandra:** The firm of Leylands, referred to by the hon. Member, has nothing to do with the manufacture of jet engines.

## FOREIGN DEPUTATIONS

***702. Shri Tushar Chatterjea:** Will the Minister of Finance be pleased to lay a statement on the Table of the House showing:

(a) the number of (i) Officials (ii) Ministers and (iii) Members of Parliament who visited foreign countries at State expense during 1954 so far;

(b) the purposes for which they were deputed; and

(c) the total expenditure incurred by the Government on each of them on their travels abroad?

**The Deputy Minister of Finance (Shri M. C. Shah):** (a) to (c). The information is being collected and will be laid on the Table of the House as soon as available.

**Shri V. P. Nayar:** Then why answer that in this way? The question was very specific, whether Government would be pleased to lay on the Table a list of Ministers, officials and Members of Parliament who visited foreign countries. If the information was not readily available, the questioner could have been written to.

**Mr. Speaker:** A statement will be laid on the Table.

**Shri V. P. Nayar:** That does not give us an opportunity at that stage to put in our supplementaries.

**Mr. Speaker:** He may repeat the question.

**Shri V. P. Nayar:** Then the office will say that the question has already been answered.

**Mr. Speaker:** Order, order.

### IMPERIAL TOBACCO COMPANY

***703. Shrimati Tarkeshwari Sinha:** Will the Minister of **Finance** be pleased to state:

(a) whether it is a fact that the Imperial Tobacco Company (India) Limited, has decided to admit Indian Capital; and

(b) if so, the total percentage of Indian Capital that will be invested in it?

**The Deputy Minister of Finance (Shri M. C. Shah):** (a) Yes.

(b) Out of the total issued capital of Rs. 15·16 crores, an offer has so far been made for the sale to Indians of shares of the value of Rs. one crore, which constitutes about 6·6 per cent. of the total issued capital.

**Shrimati Tarkeshwari Sinha:** May I know whether this move on the part of the Imperial Tobacco Co. is due to the persuasion of the Government to admit Indian capital in their firm?

**Shri M. C. Shah:** When that company applied for reorganisation and for having this increased capital, it was made a condition that it must offer Rs. 1 crore worth of shares to the Indian public in order to invite participation of Indian capital in that concern.

**Shrimati Tarkeshwari Sinha:** May I know what will be the ordinary shares that will be issued by the company within this country?

**Shri M. C. Shah:** Originally the capital was Rs. 4·16 crores. It was a rupee company registered in 1910 in West Bengal. Thereafter, there were two sterling companies and they were the Tobacco Manufacturers (India) Ltd. and the Prumbers (India) Ltd. To take them up, the capital of the Imperial Tobacco Company was increased from Rs. 4·16 crores to Rs. 16 crores. That company was a private limited company; now it has been made a public limited company and, therefore, the shares have been issued to the Indian public, which was the condition laid down while giving sanction to the company. I think that is the information that was required.

**Shrimati Tarkeshwari Sinha:** What will be the issue price of the shares and will they be under-written?

**Shri M. C. Shah:** Rs. 10-8 is the price at which the shares will be issued to the Indian public; As. 8 represent the legal charges and other expenses. There is no question of under-writing those shares which are offered to the Indian public.

### HINDUSTAN AIRCRAFT FACTORY

***705. Shri Keshavaiengar:** Will the Minister of **Defence** be pleased to state:

(a) the names of persons of foreign nationality in service in the Hindustan Aircraft Factory, Bangalore at present; and

(b) the special kinds of work that they are attending to in the factory?

**The Deputy Minister of Defence (Shri Satish Chandra):** (a) and (b).

1. Mr. J. J. M. Dziowonski—Production Adviser.

2. Mr. A. Zampolino—Factory Manager.

3. Mr. W. Sobol—Assistant Factory Manager (Commercial).

4. Mr. E. N. Issott—Chief of Aircraft Prototype & Production Equipment.

5. Mr. A. Millard—Manufacturing Superintendent.

6. Mr. J. R. Standring—Consultant in U.K.

**Shri Keshavaiengar:** May I know how long these persons are in our service, and how long will they continue to be there?

**Shri Satish Chandra:** They are on a contract basis with us. The contracts are usually for three years, though they may be extended, if their services are further required.

**Shri Bhagwat Jha Azad:** May I know what arrangements are made by the Government to substitute Indian nationals in their place after the expiry of their contracts for the work in our country?

**Shri Satish Chandra:** For the hon. Member's information, I might tell him that there are 6 foreign expert now as against 250 in 1944.

**Shri Bhagwat Jha Azad:** That is not my question. What arrangements are being made........

**Mr. Speaker:** Order, order.

**Shri V. P. Nayar:** The hon. Minister mentioned the names of two managers, Mr. Zampolino and Mr. Sobol. May I know for how long they are in the Hindustan Aircraft Factory, what is their monthly remuneration and whether they are entitled to any free passage to their home country, and if so, how many times a year?

**Shri Satish Chandra:** They have been in service for about 12 years. In the case of the Assistant Manager, his services can be terminated on three months' notice or he can leave us on three months' notice. The Factory Manager is continuing on a month to month basis. The Manager's salary is about Rs. 3,800 per month and that of the Assistant Factory Manager, Rs. 3,000.

### FLOOD RELIEF

***708. Shri Amjad Ali:** Will the Minister of Finance be pleased to state:

(a) the amount that has been made over to the Government of Assam for flood relief this year; and

(b) the sum out of the aggregate amount thus made over to Government of Assam utilised for (i) gratuitous relief and (ii) agricultural loans?

**The Parliamentary Secretary to the Minister of Finance (Shri B. R. Bhagat):** (a) No amount has yet been paid to the Government of Assam for flood relief this year.

(b) Does not arise.

**Shri Amjad Ali:** Has the Government of Assam asked for any money from Central Government for flood relief this year?

**Shri B. R. Bhagat:** They have submitted an estimate of expenditure.

**Shri Amjad Ali:** May I know why it has not been paid till now?

**Shri B. R. Bhagat:** Actually, payments are made only towards the close of the financial year on the basis of up-to-date expenditure and the estimates for the balance of the year. It is not in advance that payments are made.

**Shri Amjad Ali:** May I know the amount of expenditure which they have incurred on this account and the money asked for till now?

**Shri B. R. Bhagat:** Sir, I cannot say the amount of expenditure that they have already incurred, but I can give the estimates of expenditure that they have sent to us. These estimates are for three years—Rs. 20 lakhs for gratuitous relief; Rs. 50 lakhs as loans for relief; Rs. 10 lakhs for other reliefs; Rs. 1 crore for rehabilitation;

Rs. 1,10,00,000 for roads and Rs. 40 lakhs as repairs to Government and other buildings.

**Shri Amjad Ali:** With regard to gratuitous relief, may I know the shape in which they want to distribute the amount, the rate of interest at which the loans will be given and whether there is any question of repayment?

**Shri B. R. Bhagat:** For these detailed informations I want notice.

### REVISION OF T.A. RULES

*709. **Shri N. S. Jain:** Will the Minister of **Finance** be pleased to state:

(a) the class in which the Class I and Class II officers respectively will be entitled to travel after the first class has been abolished from the railway trains;

(b) whether Class I officers will be entitled to travel in air-conditioned coaches thereafter on payment of the additional rate of three pies per mile as extra fare; and

(c) whether Government propose to revise the T. A. Rules for the officers, in view of the abolition of first class?

**The Deputy Minister of Finance (Shri M. C. Shah):** (a) to (c). Under the present rules and orders, the position with regard to the entitlement of first and second grade officers to Railway accommodation on lines or trains on which First class has been abolished is that both first Grade (Pay above Rs. 750 per mensem) and second grade (Pay Rs. 201—750 per mensem) officers are entitled to travel Second class. However, it is permissible for first grade officers and certain categories of second grade officers (*i.e.* officers of I.A.S., I.P.S., and Central Services, Class One) who are entitled to first class accommodation on other lines to travel by air-conditioned accommodation by paying the difference between fares of the air-conditioned and first class accommodation from their pocket.

The question as to the entitlement of these officers to a particular class of railway accommodation after the total abolition of first class on all lines is being examined and it will be finalised after the new classification of railway accommodation is decided upon.

**Shri T. N. Singh:** May I know whether the payment made in addition to the actual fare will be, or is on the basis of the second class fare, that is a proportionate percentage is paid as additional expenses, or is it based on the first class fare for class I officers?

**Shri M. C. Shah:** Percentage paid to whom?

**Mr. Speaker:** The question as I understand is this. In the case of officers who are entitled to travel first class and are travelling in second class because first class has been abolished, are they entitled to claim the additional expenses on the basis of first class even when they travel on second class?

**Shri M. C. Shah:** Those who are entitled to first class will be paid 12 pies per mile, those who are entitled to second class will be paid 8 pies per mile, those who are entitled to inter-class will be paid 4 pies per mile and for third class one half.

**Shri T. N. Singh:** What I asked was, whether the one half or one quarter that is paid in addition to the actual fare for coverage of expenses, will that be on the basis of first class or second class?

**Shri M. C. Shah:** As I said, those who are entitled to travel first class but cannot travel by that class on account of the abolition of first class will be entitled, instead of one half, to 12 pies per mile.

**Shrimati Tarkeshwari Sinha:** May I know whether these T.A. rules will apply to the army officers also or whether some special concession will be given to them?

**Shri M. C. Shah:** For army officers also these are the rules.

### MAP OF INDIA

***710. Shri R. S. Diwan:** Will the Minister of **Natural Resources and Scientific Research** be pleased to state:

(a) whether Government are aware that Kashmir State has not been included in the map of India circulated at the time of UNESCO Symposium on Solar Energy and Wind Power, held in New Delhi recently; and

(b) if so, the reasons therefor?

**The Deputy Minister of Natural Resources and Scientific Research (Shri K. D. Malaviya):** (a) and (b). A statement giving the required information is laid on the Table of the House. [*See* Appendix III, annexure No. 57.]

**Shri R. S. Diwan:** Is it a fact that the original draft map was prepared by an Indian expert and Kashmir was included in it, but it was deleted at the instance of the UNESCO printing expert? If so, may I know whether permission of the Government of India was taken before deleting it?

**Shri K. D. Malaviya:** Sir, I do not know the facts as represented by the hon. Member. What I know is, that we were not consulted. Government of India was not consulted in the preparation of this plan and it was done by the UNESCO South Asia Science Cooperation Office, we are given to understand now, after I referred the matter to them, that it was not at all their intention to delete this. As the object was to indicate the arid zones alone in India with which the UNESCO Advisory Committee was particularly concerned, Kashmir has been deleted.

**Shri R. S. Diwan:** Is it a fact that immediately before the symposium, the printing expert of UNESCO had been to Kashmir and stayed there for a month or so?

**Shri K. D. Malaviya:** I am not aware of it; I will make enquiries.

**Shri R. S. Diwan:** May I know whether it is a fact that the term of the UNESCO expert was about to expire and it has been extended? If so, by how many years?

**Shri K. D. Malaviya:** I do not know. Sir.

### EXCAVATIONS (NAGARJUNAKONDA)

***711. Dr. Ram Subhag Singh:** Will the Minister of **Education** be pleased to state:

(a) whether excavation work has recently been undertaken at Nagarjunakonda (Guntur) ruins; and

(b) if so, whether Government propose to preserve the relics of Nagarjunakonda?

**The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das):** (a) Yes.

(b) Yes, as far as possible.

**Dr. Ram Subhag Singh:** Is it true that with the introduction of the Nandikonda Project, further explorations of the ruins and relics at Nagarjunakonda will be rendered impossible?

**Dr. M. M. Das:** Sir, we have got 4 or 5 years time at our disposal. The Nandikonda Dam will take at least 4 or 5 years more to be constructed. By that time we hope to finish this excavation work.

**Shri Raghuramaiah:** May I know what special and important relics have been dug up recently that have been taken over to Burma and for what purpose?

**Dr. M. M. Das:** So far as I know, and I speak subject to correction some of these archaeological specimens have been sent to Burma temporarily. It has been the practice of Governments of different countries to send archaeological specimens of interest to particular countries for temporary exhibitions. So, some of our specimens may have been sent to Burma.

**Shri Raghuramaiah:** I presume, from what the Parliamentary Secretary said, that they will be returned to India. If and when they are removed, and in view of the very strong public opinion in Andhra, I want to know whether the Parliamentary Secretary would consider the question of locating these relics as near Nandikonda Dam site as possible?

**Dr. M. M. Das:** The hon. Member knows that there is at present a museum at the site. This museum will also be under water when the dam will be completed. Therefore, we have to remove these specimens to another museum the location of which has not yet been decided.

### BERYL

***712. Shri Deogam:** Will the Minister of **Natural Resources and Scientific Research** be pleased to state:

(a) whether there is any limitation of time for the disposal of applications for mining leases for Beryl;

(b) whether Government are aware that there have been frequent delays in the disposal of such applications; and

(c) what action Government propose to take in the matter?

**The Deputy Minister of Natural Resources and Scientific Research (Shri K. D. Malaviya):** (a) No, Sir.

(b) Information regarding the time taken for the disposal of applications for mining leases for beryl is being collected and will be laid on the Table of the House.

(c) The need for expeditious disposal of applications for the grant of mineral concessions has been impressed upon State Governments from time to time.

**Shri Deogam:** Does not this delay result in loss of revenue to Government and harrassment to prospective lessees?

**Shri K. D. Malaviya:** I do not know about that, but, as I said we have been impressing upon the State Governments to expedite disposal of these applications. We are still considering the matter as to how best to improve affairs. In this connection some further letters have been exchanged between our Ministry and the Governments of the States and we hope things will improve.

### *Ex*-SERVICEMEN IN MADRAS STATE

***714. Shri Veeraswamy:** Will the **Minister of Defence** be pleased to state:

(a) the total number of *ex*-servicemen in Madras State:

(b) how many *ex*-servicemen have been provided with employment in that State in 1953 and 1954 (till the end of September); and

(c) whether any preference is being given to them in the matter of appointments?

**The Deputy Minister of Defence (Sardar Majithia):** (a) The information is not readily available.

(b) 2,744 *ex*-servicemen have been found employment in Government and Private service in 1953 and a further 1,460 upto September 1954.

(c) Yes. The State Government is giving preference to *ex*-servicemen in filling up appointments for which military training is a special qualification.

**Shri Veeraswamy:** May I know whether it is not a fact that there are many *ex*-servicemen who have not been able to secure any employment through the employment exchanges for more than three years?

**Sardar Majithia:** I know there are certain *ex*-servicemen who have not been able to find employment because the number is really very very large. If the hon. Member wants to know a little bit of it, in the Madras zone, which includes Madras, Travancore-Cochin, Mysore and Coorg, there are 5,21,409 *ex*-servicemen registered and out of them 1,03,370 have found employment. Thus there is a balance no doubt.

**Shri Veeraswamy:** May I know whether any instructions have been issued to the State Government to recommend to the employment exchanges to secure jobs to *ex*-servicemen without any long delay?

**Sardar Majithia:** Those employment exchanges are meant for that specific purpose, namely, of getting employment for these people, and they make all their best endeavours, but naturally you do not expect so many places falling vacant for all these men to be absorbed for which they are fit.

**Shri V. P. Nayar:** From the figures given by the hon. Minister, it would appear that roughly 20 per cent. of the *ex*-servicemen have been resettled in employment. I would like to know what percentage of *ex*-servicemen has been resettled in the land colonisation schemes?

**Sardar Majithia:** I have not got the figures on hand, but to the various questions that have been put to this Ministry, we have been giving figures. Offhand I can say that we have got about 22 more colonies going to come up, in which more *ex*-servicemen will be resettled on land.

## छावनी बोर्ड

*७१५. **श्री भक्त दर्शन** : क्या रक्षा मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या यह सच है कि हाल में विभिन्न छावनी बोर्डों के पास छावनी बोर्डों के पिछले सम्मेलन द्वारा दिये गये सुझावों पर विचार करने के लिये एक गश्ती पत्र भेजा गया है ; और

(ख) यदि हां, तो क्या उस की एक प्रति सभा पटल पर रखी जायेगी ?

**The Deputy Minister of Defence (Sardar Majithia):** (a) and (b). No circular letter has been recently issued by Government to Cantonment Boards.

It may, however, be stated that following a Conference in March 1954 with Vice-Presidents of such of the Cantonment Boards as have Civil Area Committees Government issued directions conveying its decision to delegate to Civil Area Committees certain powers, hitherto enjoyed by Cantonment Boards. Orders were also issued setting up *Ad Hoc* Committees to revise the Standard Table of Rents in all Cantonments and to consider extension of Civil Areas in Cantonments.

**श्री भक्त दर्शन** : यह जो विभिन्न छावनी बोर्डों के लिये एडहाक कमेटियां बनाई गई हैं क्या इन की सम्मतियों के लिये कोई तारीख निश्चित कर दी गई है, और यदि देरी हो जाय तो क्या उन को स्मरण पत्र भेजने का विचार किया जा रहा है ?

**Sardar Majithia:** These Committees, which have been formed, are looking into the matter to which they have been entrusted. If we find that no response is coming forth, say, within a couple of months from now, I will remind them again.

**श्री भक्त दर्शन** : छावनी बोर्डों की ओर से जो सम्मतियां दी जायेंगी क्या उन को सर्व सम्मत रूप से मान लिया जायगा या उन में मंत्रालय कुछ संशोधन करेगा ?

**Sardar Majithia:** The suggestions made by these Committees will be duly considered by the Ministry; they will be given due consideration.

**श्री भक्त दर्शन** : क्या में यह जान सकता हूं कि विभिन्न छावनी बोर्डों से जो सम्मतियां आ जायेंगी, उस के बाद उन पर निर्णय करने से पहले इस विषय में दिलचस्पी रखने वाले संसद सदस्यों की भी सम्मति ली जायगी ?

**Sardar Majithia:** I shall look into the matter when the answers are received from these Committees. Then it will give me a clear picture of what the controversial matters are and I will certainly consult the Members who show interest in them.

### MILITARY RATIONS

***716. Shri Thimmaiah:** Will the Minister of **Defence** be pleased to state:

(a) whether there is any differentiation in rations supplied to Soldiers, Sailors and Airmen; and

(b) if so, the reasons therefor?

**The Deputy Minister of Defence (Sardar Majithia):** (a) Yes.

(b) The different ration scales have existed in the three Services for a long time. The difference is due to the fact that the scales were drawn up independently on the basis of the respective Service conditions.

**Shri Thimmaiah:** Is it a fact that the soldiers do not get any eggs at all whereas the sailors and airmen are getting them?

**Sardar Majithia:** About the specific article mentioned by the hon. Member, I cannot say offhand, but as I have said, the difference is there. If he wants to know the calories, the Army gets about 3,760 calories, and the Navy and the Air Force about 4,100 calories.

### MANUFACTURE OF AMMUNITION

***717. Shri Ganpati Ram:** Will the Minister of **Defence** be pleased to state:

(a) the progress made by ordnance factories in the manufacture of guns, cartridges and other military equipment; and

(b) the measures taken by the Government to expedite the work?

**The Deputy Minister of Defence (Shri Satish Chandra):** (a) Within the limits of available resources reasonable progress is being made in the attainment of self-sufficiency in the production of military equipment.

(b) Government policy is to expand indigenous production to the maximum extent possible and with this in view, there is constant examination of the requirements of the Defence Services to see how far essential equipment could be manufactured in India. Training Schemes for various types of technicians have been started and a number of technicians are sent abroad for improving their knowledge and skill.

**श्री गणपति राम** : क्या मैं जान सकता हूं कि कितने दिनों में भारत इन सब चीजों में आत्मनिर्भर हो जायगा ?

**श्री सतीश चन्द्र** : इस के लिये कोई समय निर्धारित करना तो बहुत मुश्किल है ।

**श्री गणपति राम** : क्या मैं जान सकता हूं कि जो आर्म्स और एम्युनिशन यहां बनाया जाता है वह दूसरे देशों के मुक़ाबले इनफ़ीरियर होता है या सुपीरियर ?

**श्री सतीश चन्द्र** : जो सामान बनाया जाता है वह उस सामान से किसी हालत में इनफीरियर नहीं है जोकि बाहर से आता था या जैसा कि और देशों में बनता है ।

### LITERARY WORKSHOP

***721. Shri N. B. Chowdhury:** Will the Minister of **Education** be pleased to state:

(a) whether the Literary Workshop for the eastern region has started production; and

(b) if so, how the demands for different regional languages are being met?

**The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das):** (a) and (b). A statement is laid on the Table of the House. [*See* Appendix III, annexure No. 58.]

**Shri N. B. Chowdhury:** From the statement I find that 21 manuscripts were produced by the persons trained in literary works. May I know whether these books will be compulsorily introduced in the primary schools of the States concerned?

**Dr. M. M. Das:** No Sir. These are manuscripts prepared by the trainees and these manuscripts will be examined by the Central Government, and if they are found to be of merit, then they will be published.

**Shri N. B. Chowdhury:** I find from the statement that there were some representatives from the State of Tripura, but no manuscript has been produced in the Tripura language. What is the reason for this? We find that books in Bengali, Assamese, Manipuri and Oriya have been produced, but no books are produced in the Tripura language.

**Dr. M. M. Das:** I would like to have notice of that question.

### NAVAL SHIPS

*722. **Shri K. C. Sodhia:** Will the **Minister of Defence** be pleased to state:

(a) the total number of Naval ships, if any, at present on loan from the Royal Navy;

(b) the dates on which they were obtained and the period of their loan;

(c) whether it is proposed to purchase these ships after their loan period is over: and

(d) if so, the total amount of payment that is to be made and the manner in which it is proposed to be discharged?

**The Deputy Minister of Defence (Shri Satish Chandra):** (a) Three Hunt class Frigates.

(b) They were transferred to the Indian Navy on 27th April 1953 on loan for a period of 3 years.

(c) This has not been considered.

(d) Does not arise.

**Shri K. C. Sodhia:** May I know whether these ships were taken without considering what the financial implications would be?

**Shri Satish Chandra:** The financial implications were studied fully before they were taken.

**Shri K. C. Sodhia:** May I know what was the amount paid for their stay here?

**Shri Satish Chandra:** These ships have been taken on loan and are to be returned after three years. They shall be with us if loan period is extended. No payment has been made to U. K. Government except expenditure on their refitting and modernization which were done on Government of India account.

**Shri U. C. Patnaik:** May I know what was the cost of renovation and repairs of these frigates?

**Shri Satish Chandra:** Rs. 1,17,00,000.

### HINDI TEACHERS IN ANDAMAN AND NICOBAR ISLANDS

*723. **Shri S. C. Samanta:** Will the **Minister of Education** be pleased to state:

(a) whether Government are aware that there is a great paucity of good Hindi knowing teachers in the schools in the Andaman and Nicobar Islands;

(b) if so, what steps have been taken to improve the situation; and

(c) whether any steps have been taken to start Intermediate and Degree Course Colleges there?

**The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das):** (a) Yes, Sir.

(b) Strenuous efforts were made to recruit Hindi knowing teachers from the mainland through different organisations and Governments, but the result was not encouraging. The Government will continue their efforts in this connection.

(c) No, Sir.

**Shri S. C. Samanta:** May I know whether the teachers that were to be recruited were given an assurance that they would be given special allowances because of their being in the islands?

**Dr. M. M. Das:** All the gazetted and non-gazetted officers posted in the Andaman Islands get 33 1/3 per cent. more than their pay as island allowance or Andaman allowance.

**Shri S. C. Samanta:** May I know whether in the present Five Year Plan or in the Second Five Year Plan any sum has been allotted for starting an Intermediate College there?

**Dr. M. M. Das:** So far as my knowledge goes, and I speak subject to correction there is no proposal at present.

**Shri S. C. Samanta:** Is it not a fact that the leader of the delegation of Members of this House to the Andaman and Nicobar Islands submitted to the Government that there is dire necessity of a college there, because students cannot come to the mainland owing to difficulty voyage from the islands?

**Dr. M. M. Das:** It may be a fact, Sir.

### DEVELOPMENT OF HINDI

***724. Shri M. L. Agrawal:** Will the **Minister of Education** be pleased to state:

(a) whether Government have recently given any grants to the Travancore-Cochin State for the development of Hindi in the State;

(b) if so the amount of grants so given;

(c) whether Government have laid down any conditions for utilizing the grants by the State Government;

(d) whether similar grants have been given or are proposed to be given to other States; and

(e) if so, the names of these States and the respective amounts given or proposed to be given to them?

**The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das):** (a) Yes, Sir.

(b) Rs. 88,440.

(c) Government of India have not laid down any specific schemes but the grant has been given for implementing the schemes of the State Government as approved by the Ministry of Education, for promotion of Hindi under the Five-Year-Plan.

(d) and (e). Yes, Sir. A statement showing the details of the grants given to the State Governments under the Five Year Plan is placed on the Table of the House. [*See* Appendix III, annexure No. 59.] All these grants were made during the year 1954-55.

**Shri M. L. Agrawal:** May I know what is the basis of these grants? Are area and population of the different States taken into consideration?

**Dr. M. M. Das:** As has been said, these grants are given on the basis of the schemes that are sent by the State Governments for the propagation of Hindi in their States, provided these schemes are approved by the Central Government.

**Shri M. L. Agrawal:** May I know whether the Government of India have made any survey in the different States as regards their requirements in respect of the propagation of Hindi?

**Dr. M. M. Das:** The State Governments have been asked to prepare schemes and send them to us for approval, before grants are made. So, the State Government will do whatever is necessary.

**Shri M. L. Agrawal:** Why has so little been given to Madras and nothing to PEPSU or Punjab?

**Dr. M. M. Das:** The schemes of the Punjab Government are under consideration. Most probably—I cannot commit myself—we have not yet received the proposals from the PEPSU Government.

**Shri Thimmaiah:** May I know whether the State Governments submit any annual reports regarding the development of Hindi and whether the Central Government examine these reports?

**Dr. M. M. Das:** We have given grants for the current year only—as I have said—for 1954-55. So, after the end of the financial year, we will ask for the implementation reports of these schemes, how far they have been able to implement the schemes.

**Shri A. M. Thomas:** The question refers to the grant specifically made to Travancore-Cochin. May I enquire whether Hindi has been made a compulsory subject in the secondary schools in Travancore-Cochin?

**Dr. M. M. Das:** I cannot commit myself, but so far as my information goes, Hindi has been made a compulsory subject in the secondary schools there.

### SCIENTIFIC LIAISON OFFICER, LONDON

*725. **Sardar Hukam Singh:** Will the Minister of **Natural Resources and Scientific Research** be pleased to state:

(a) the Status of the Scientific Liaison Officer in the United Kingdom; and

(b) the nature of Liaison work undertaken by him during 1954 so far?

**The Deputy Minister of Natural Resources and Scientific Research (Shri K. D. Malaviya):** (a) and (b). A statement giving the required information is laid on the Table of the House. [*See* Appendix III, annexure No. 60.]

**Sardar Hukam Singh:** The statement discloses that the Indian Scientific Liaison Officer has multifarious duties to perform and his activities have been divided into 12 items out of which "maintained personal contacts," "obtained contacts," and "provided contacts" are listed. May I know whether these functions are to be performed in other countries also—other than U.K.—and which is the officer that performs these functions there?

**Shri K. D. Malaviya:** I hope the answer is specific so far as the United Kingdom is concerned.

**Mr. Speaker:** In addition to his duties, is he expected to do similar services for other countries also?

**Shri K. D. Malaviya:** So far as this officer is concerned, I think that the activities of other countries are not included.

**Sardar Hukam Singh:** I wanted to know whether these functions are performed by any of our officers—be he Adviser to our diplomatic representative or anybody else—in other countries, besides U.K., or not?

**Shri K. D. Malaviya:** I think, in generality, such functions are performed by other officers.

**Sardar Hukam Singh:** Why is it then that the special officer is appointed in U.K. alone, and in the other countries some other officer is performing the same duties?

**Shri K. D. Malaviya:** These are not the only duties of this officer, as specified by the hon. Member: for maintaining contacts and obtaining information and all that. Besides these, there are other subjects, especially of giving advice to our Government with regard to scientific affairs and contacting scientists.

### HALI SICCA CURRENCY

*726. **Shri Krishnacharya Joshi:** Will the Minister of **Finance** be pleased to state:

(a) whether small coins of *Hali Sicca* Currency are still being minted at Hyderabad; and

(b) if so, how long this will continue?

**The Deputy Minister of Finance (Shri A. C. Guha):** (a) No, Sir. The minting of small coins of *Hali Sicca* Currency was discontinued in September, 1954.

(b) Does not arise.

**Shri Krishnacharya Joshi:** May I know what is the total amount of *Hali Sicca* Currency minted in 1954?

**Shri A. C. Guha**: When the policy of withdrawing *Hali Sicca* Currency was given effect to, that is, from 1st April 1953, the total amount in circulation was Rs. 42,13,00,000. In October, 1954—the current year—it is Rs. 8,68,00,000. So, Rs. 33,45,00,000 have been withdrawn. The value of the coins minted, I think, would be †a little over Rs. 1 lakh.

**Shri Krishnacharya Joshi**: What is the purpose of continuing the circulation of small *Hali* coins while they have not been substituted?

**Shri A. C. Guha**: As I have stated, this is not being minted now. It has been discontinued since September this year.

**Shri T. B. Vittal Rao**: May I know whether, consequent upon the withdrawal of these coins, there was any displacement of workers?

**Shri A. C. Guha**: I do not think so.

### LOAN TO TATA HYDRO-ELECTRIC SUPPLY CO., LTD.

*729. **Shrimati Tarkeshwari Sinha**: Will the Minister of **Finance** be pleased to state:

(a) whether the Tata-Hydro-Electric Supply Co., Ltd, has informed Government about the results of negotiations with the World Bank for raising a loan for the proposed development of the said concern;

(b) whether the rates of interest demanded by the World Bank for the loan are higher than the usual rates of interest paid on the public-loans raised in the country; and

(c) whether, in view of the improved financial conditions in the country, there is any likelihood of the Tata-Hydro-Electric Supply Co. Ltd., raising the requisite loans in the country itself?

**The Parliamentary Secretary to the Minister of Finance (Shri B. R. Bhagat)**: (a) Yes, Sir.

(b) The loan is repayable over a period of 20 years and carries interest at the rate of 4¾ per cent. per annum. The Government have not raised any loans of such maturity recently. A comparison between the interest paid on public loans and the interest on the World Bank loan is, therefore, not possible.

(c) As I stated in reply to Starred Question No. 564 on the 30th November, 1954, the Bank has already sanctioned a loan of $16·2 million for the Thermal Power Project of Tatas. The loan is required for financing the foreign exchange cost of the project, and the prospects of internal borrowing in the country are not wholly relevant for this purpose.

**Shrimati Tarkeshwari Sinha**: May I know whether the commission of the Bank is also included in the rate of interest that has been charged?

**Shri B. R. Bhagat**: Yes, Sir.

**Shrimati Tarkeshwari Sinha**: What is the percentage of the commission?

**Shri B. R. Bhagat**: The commission is one per cent.

**Shrimati Tarkeshwari Sinha**: May I know whether the rate of interest charged for the loan is usually uniform in all the member-countries or whether there is any disparity; if there is any disparity, what is the reason?

**Shri B. R. Bhagat**: The rates of interest do not vary with countries but with specific loans. It depends on what type of loan it is and for how many years and so on. It varies with these. But, generally, it is more or less the same in similar types of loans and for the same period.

### DEFENCE FACTORIES

*732. **Shri T. B. Vittal Rao**: Will the Minister of **Defence** be pleased to state:

(a) whether the Defence Factories and Installations were closed down on the 2nd October, 1954 without the consent of the works Committees of the Factories and Installations; and

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†The original reply by the Minister reads as follows:—

'The value of the coins minted, I think, would be over Rs. 1 crore.'

The reply as printed above was sent by the Minister afterwards in substitution of the original reply.

(b) if so, the reasons therefor?

**The Deputy Minister of Defence (Shri Satish Chandra):** (a) and (b). 2nd October was declared as one of the compulsory paid holidays and as such, the question of consulting the Works Committees in the Installations where it was not already included in the list of paid holidays for industrial employees did not arise. When Independence Day and Republic Day were included as compulsory paid holidays, Works Committees were not consulted.

**Shri T. B. Vittal Rao:** May I know if it is not a fact that at the beginning of the year, these Works Committees are generally consulted as to the number of holidays and as to what holidays they should take?

**Shri Satish Chandra:** The number of holidays is prescribed and the workers are given the option to choose two or three particular holidays and delete the equal number. In this case, 2nd October was not included as a holiday as was the practice in many defence installations in the past. Instead of it, May Day was substituted. There were representations from other workers that 2nd October should be a holiday and Government thought it fit to declare it as a compulsory holiday.

**Shri T. B. Vittal Rao:** My point is: they do want a holiday on 2nd October. That should be treated as a national holiday and not as one of the 14 days in a year.

**Shri Satish Chandra:** 2nd October has been placed in the same category as the Independence Day and the Republic Day holidays; the procedure adopted in this case is not something different from the other national holidays.

### COAL AND IRON RESERVES IN U.P. AND ASSAM

*736. **Shri Ganpati Ram:** Will the Minister of **Natural Resources and Scientific Research** be pleased to state:

(a) whether it is a fact that vast quantities of coal and iron reserves have been found in hilly areas of Assam, U.P. and other States; and

(b) the quality of coal that has been found in these reserves?

**The Deputy Minister of Natural Resources and Scientific Research (Shri K. D. Malaviya):** (a) and (b). A statement giving the available information is laid on the Table of the House. [*See* Appendix III, annexure No. 61.]

**श्री गणपति राम** : क्या मैं जान सकता हूं कि और भी अन्य जगहों पर कोई ऐसी खोज हो रही है जहां पर कोयला और लोहा प्राप्त हो सके ?

**श्री के० डी० मालवीय** : जहां तक कोयले का सम्बन्ध है, बिहार और वैस्ट बंगाल में तो हमारे देश के सारे कोयले का ८२ प्रतिशत कोयला पाया जाता है, इन के अलावा और जगहों पर भी मिलता है, लेकिन हमारा विभाग इन्हीं जगहों का अन्वेषण जहां तक उस के डिटेल्स का सम्बन्ध है, कर रहा है । अगर और जगहों पर सुविधा मिलेगी तो वहां पर भी इस सम्बन्ध में अन्वेषण किया जायगा । लोहे की खानें बिहार, उड़ीसा, मद्रास, मैसूर और मध्यप्रदेश में अधिकतर हैं और इन स्टेटों में जो लोहा मिलता है वह ज्यादातर बिहार में बोनाई, मयूरभंज, क्योंझर और सिंगभूमि क्षेत्र में मिलता है ।

**सरदार ए० एस० सहगल** : क्या मंत्री महोदय जैसा कि अभी उन्हों ने कहा है अगर कोई सुझाव दिया जायगा तो वह इन पदार्थों की खोज मध्यप्रदेश के वस्तर और दूसरी जगहों पर करेंगे और वहां पर कोयले और लोहे को प्राप्त करने के लिये खोज की जायगी ?

**श्री के० डी० मालवीय** : हां, कुछ कुछ मध्यप्रदेश के क्षेत्रों में खोज की जा रही है और हमारे कार्यक्रम में वह शामिल भी कर दिया गया है ।

**श्री भक्त दर्शन** : क्या यह सत्य है कि अभी हाल में उत्तर प्रदेश के बिजनौर और गढ़वाल ज़िलों की सरहद पर कोयले के एक बड़े भंडार का पता लगा है, और यदि यह बात सत्य है, तो क्या उस के वास्ते आवश्यक कार्यवाही सरकार की ओर से की जा रही है ?

**श्री के० डी० मालवीय** : जी नहीं, बड़े भंडार का तो पता नहीं लगा है लेकिन उत्तर प्रदेश की सरकार ने सूचना दी है कि वहां अब की बरसात में कुछ कोयला बह कर आया हुआ जरूर दिखाई पड़ा है । उस सम्बन्ध में अन्वेषण किया जायगा ।

### EDUCATIONAL AND OTHER GRANTS

*738. **Shri K. C. Sodhia:** Will the Minister of **Education** be pleased to lay a statement on the Table of the House showing:

(a) the amount of grant paid or proposed to be paid during the current financial year to (i) The Imperial Institute, London; and (ii) The National Committee on Early Childhood Education and as partial financial assistance to musicians, dancers and artistes:

(b) the activities of the Imperial Institute, London:

(c) the location of the National Committee on Early Childhood Education and the names of its Members; and

(d) what specific contributions have been made by the two abovementioned institutions to Indian Education?

**The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das):** (a) to (d). A statement is laid on the Table of the House. [*See* Appendix III, annexure No. 62.]

**Shri K. C. Sodhia:** In the statement it has been stated that the Imperial Institute provides a Commonwealth platform and serves as a Commonwealth forum and furthers the mutual understanding amongst members of Commonwealth countries. May I enquire whether there are any Indian employees serving in that Institute?

**Dr. M. M. Das:** I beg to have notice of the question.

**Shri K. C. Sodhia:** Are there any Indian employees employed in the Indian Institute there?

**Mr. Speaker:** He wants notice of that question; he is not able to answer.

**Shri K. C. Sodhia:** My next question is this. When was this National Committee on Early Childhood Education constituted and what are its functions?

**Dr. M. M. Das:** The World Council for childhood education requested us in April 1949 to form a National Committee in India which would be affiliated to that Council. We then constituted this Committee as a Subcommittee of the Central Advisory Board of Education.

**Shri K. C. Sodhia:** Were any resolutions passed by that Committee?

**Dr. M. M. Das:** Yes, Sir. The Committee met for the first time on the 28th and 29th April 1953 and passed several resolutions. There is a long list of recommendations.

### OIL PROSPECTING IN BENGAL

*740. **Shri S. C. Samanta:** Will the Minister of **Natural Resources and Scientific Research** be pleased to refer to the supplementary question raised on starred question No. 2373 asked on the 11th May, 1954 and state:

(a) whether the Negotiating Committee have considered all the proposals of the oil companies:

(b) if so, the final decision that has been arrived at; and

(c) the name of the company which is working at present and what are its findings?

**The Deputy Minister of Natural Resources and Scientific Research (Shri K. D. Malaviya)**: (a) and (b). The proposals of the oil companies are still under the consideration of the Negotiating Committee.

(c) The Company's name is Standard Vacuum Oil Company. It is too early for it to declose its findings.

**Shri S. C. Samanta**: May I know the names and nationalities of experts that have been employed in the work?

**Shri K. D. Malaviya**: Which work? I cannot follow.

**Shri S. C. Samanta**: May I know how far the survey has been made and whether a geo-physical type of survey has been made?

**Shri K. D. Malaviya**: As far as I am aware, if the hon. Member refers to West Bengal basins survey, some surveys are at present going on and these surveys are being carried out along both the banks of the river Hooghly and after this a third survey—the geo-physical survey—would be undertaken.

**Shri S. C. Samanta**: May I know why so much time has been taken because the hon. Minister informed us in May last that seismic survey was going on?

**Shri K. D. Malaviya**: It is a long process and it will take some time because it is a large area where a number of experiments have to be conducted and only recently the Standard Vacuum Oil Company got their instruments from some countries of South West Asia and then started their prospecting work.

**Shri Meghnad Saha**: May I know if there is any Indian team doing this kind of work? I am asking this question because the Geological Survey has a geo-physics section for the last seven years and I think the time was sufficient for any country to evolve a team of experts for this kind of survey?

**Shri K. D. Malaviya**: The programme of immediately taking up the geo-physical survey for oil is now under the active consideration of the Government. It is a fact that we have got a small division and this division has done some work in Jaisalmer and Saurashtra areas in finding out the nature of the oil-bearing rocks in those areas. But the geo-physical prospecting work has not yet started; that will be started.

## Short Notice Question and Answer

### GURKHA RECRUITS FOR THE BRITISH ARMY

**S. N. Q. No. 3. Shri Sadhan Gupta**: Will the **Prime Minister** be pleased to state:

(a) whether a British Military Aircraft was permitted to transport Gurkha recruits for the British Army to Malaya from the Dum Dum Airport on the 26th November, 1954;

(b) if so, the reasons therefor; and

(c) the number of military personnel so transported?

**The Prime Minister and Minister of External Affairs and Defence (Shri Jawaharlal Nehru)**: (a) to (c). In accordance with our agreement with the United Kingdom Government, we allow Gurkha soldiers, recruited by British authorities in Nepal, transit facilities as civilians to cross India. Even apart from this agreement, such facilities are available to people travelling as civilians. Gurkha soldiers on leave come back to Nepal, usually *via* Calcutta, and on expiry of leave go back the same way. Normally they travel by sea from Calcutta.

On the 19th November, permission was sought on behalf of the United Kingdom Trade Commission from the Ministry of External Affairs for a flight clearance for a civil charter flight from Singapore to Calcutta and back. It was stated that this aircraft would carry fifty-five Gurkhas on leave as civilians and would take back about the same number on expiry of their leave. This was in accordance with our agreement with the United

Kingdom Government and permission was, therefore, granted. The aircraft used was a civil aircraft and passengers who travelled by it came and went as civilians. I would like to add that while 55 Gurkhas came and 58 went, the 58 included 18 Gurkha men and 40 wives and children.

**Shri Sadhan Gupta:** May I know whether the condition that the Gurkhas may go as civilians simply means that they are not to go in military uniform, but that they may go to Malaya and serve as soldiers?

**Mr. Speaker:** The question is, does the condition of their going as civilians mean only that they will not go in uniform. The allegation is that they were sent to Malaya as soldiers.

**Shri Jawaharlal Nehru:** Of course, they were. They came from Malaya. When transit facilities are given to people coming from Malaya to India, they come there on leave and they go back. That is the whole purpose of giving transit facilities. Otherwise, it would have no meaning. As the hon. Member asked about uniforms, etc., it is true that they do not go as soldiers. They go as individuals. They do not wear uniforms. But, what sometimes happens is that these people are not in uniform; their clothing is limited; they put on some old coat or something which may resemble to an outsider a uniform.

**Shri Sadhan Gupta:** May I know whether it is a fact that the Gurkhas who went in this instance whose photographs have been published, went actually in *khaki* military dress, and they numbered about 68 men and not wives and children?

**Shri Jawaharlal Nehru:** Who came or went?

**Shri Sadhan Gupta:** Went to Malaya on the 26th.

**Shri Jawaharlal Nehru:** As a matter of fact, I made another enquiry from Calcutta only yesterday from the Deputy Commissioner, Calcutta and he informed me that on the 25th, a batch of Gurkha soldiers and their wives and children, all numbering 58 came and on the next day, they left for Singapore: 18 Gurkha soldiers and 40 wives and children, the total being 58. He said that all the persons were in *mufti* and there was no person travelling in uniform. As I said, the hon. Member might have seen them putting on an old coat and thought that it was a uniform. It is not considered as uniform.

**Some Hon. Members** *rose*—

**Mr. Speaker:** I do not think I should encourage any more questions on this. I go to the Adjournment Motion.

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## WRITTEN ANSWERS TO QUESTIONS

### KUNZRU COMMITTEE'S REPORT

*690. **Shri D. C. Sharma:**
**Shri Dhulekar:**

Will the Minister of **Defence** be pleased to refer to the reply to starred question No. 1113 asked on the 20th September, 1954 and state:

(a) whether the Kunzru Committee which was appointed to advise Government on matters relating to the rejection of officer cadets during their training have submitted their report; and

(b) if so, the decisions taken by Government on the recommendations made therein?

**The Deputy Minister of Defence (Shri Satish Chandra):** (a) No. The Committee's report is expected by the end of this month.

(b) Does not arise.

### ARREARS OF INCOME TAX

*691. **Shri S. C. Singhal:** Will the Minister of **Finance** be pleased to state:

(a) the arrears of income-tax for the past three years; and

(b) the amount realized and the number of assessees against whom action has been taken for non-payment of dues?

**The Deputy Minister of Finance (Shri M. C. Shah):** (a) The arrears of income-tax and super-tax at the end of the years 1951-52, 1952-53 and 1953-54 were Rs. 131·6, 159·3 and Rs. 169·6 crores respectively.

(b) The amounts realised out of these arrears in 1952-53, 1953-54 and 1954-55 (upto 30th September) were Rs. 29·2, 30·0 and 12·8 crores respectively.

The number of assessees against whom action had been taken by way of imposing penalty for non-payment of dues was 13,247 in 1951-52 and 19,174 in 1952-53. The number of cases in which such action had been taken in 1953-54 is not available as yet. Figures regarding other action taken, namely, issue of Recovery Certificates and notices under Section 46(5A) are not readily available.

### SMUGGLING OF GANJA

***693. Pandit D. N. Tiwary:** Will the Minister of **Finance** be pleased to state:

(a) whether it is a fact that large quantity of *Ganja* is smuggled every year into India from other countries; and

(b) if so, what special steps have been taken to prevent this smuggling?

**The Deputy Minister of Finance (Shri A. C. Guha):** (a) and (b). It is apprehended that there is a certain amount of smuggling of *Ganja* on the Indo-Nepal border. The bordering States of Bihar, Uttar Pradesh and West Bengal and the Government of Nepal have taken special steps to prevent this illegal traffic in *Ganja* on the border.

### FLYING SAUCERS

***694. Shri Gidwani:** Will the Minister of **Natural Resources and Scientific Research** be pleased to state:

(a) whether the attention of Government has been drawn to a news item published in the press to the effect that a "Flying Saucer" was seen over Bombay twice recently; and

(b) whether meteorologists in Bombay have observed the same and made any scientific study of it?

**The Deputy Minister of Natural Resources and Scientific Research (Shri K. D. Malaviya):** (a) Yes, Sir.

(b) No, Sir.

### SYNTHETIC BLOOD PLASMA

***698. Dr. Rama Rao:** Will the Minister of **Natural Resources and Scientific Research** be pleased to state:

(a) whether any synthetic substitute for blood plasma has been evolved at the National Chemical Laboratory;

(b) whether any experiments have been conducted with the substance; and

(c) if so, with what results?

**The Deputy Minister of Natural Resources and Scientific Research (Shri K. D. Malaviya):** (a) Yes, Sir.

(b) Extensive physiological trials have been made on dogs in collaboration with the Armed Forces Medical College, Poona.

(c) The trials indicate that the product satisfies all the requirements of a transfusion fluid for treatment of shock.

### FOREIGN DEPUTATION OF ARCHAEOLOGICAL EXPERTS

***700. Shri Ibrahim:** Will the Minister of **Education** be pleased to state:

(a) whether there is any proposal to send Indian Archaeological Experts to neighbouring countries like Afghanistan, Iran, and other Middle East countries; and

(b) if so, what will be their main work there?

**The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das):** (a) and (b). The matter is in an exploratory stage.

### CENTRAL GLASS AND CERAMICS RESEARCH INSTITUTE

***701. Shri H. N. Mukerjee:** Will the Minister of **Natural Resources and Scientific Research** be pleased to state:

(a) whether any indigenous sources of raw materials used in glass and ceramics manufacture have been found out as a result of research carried on at the Central Glass and Ceramics Research Institute, Calcutta;

(b) if so, what are they; and

(c) what steps have been taken for their application to the industry?

**The Deputy Minister of Natural Resources and Scientific Research (Shri K. D. Malaviya):** (a) Yes, Sir.

(b) and (c). A statement giving the required information is laid on the Table of the House. [*See* Appendix III, annexure, No. 63.]

### ADVISORY COMMITTEE ON ARID ZONE RESEARCH

***704. Shri Bahadur Singh:** Will the Minister of **Natural Resources and Scientific Research** be pleased to state:

(a) the names of the countries which participated in the Eighth Session of the UNESCO Advisory Committee on Arid Zone Research held in New Delhi during October, 1954; and

(b) the subjects discussed there?

**The Deputy Minister of Natural Resources and Scientific Research (Shri K. D. Malaviya):** (a) and (b). A statement giving the required information is laid on the Table of the House. [*See* Appendix III, annexure No. 64.]

### NATIONAL PLAN LOAN

***706. Shri Nanadas:** Will the Minister of **Finance** be pleased to state whether it is a fact that pressure has been used for collection of National Plan Loan in Uttar Pradesh by administrative Heads of the Departments?

**The Parliamentary Secretary to the Minister of Finance (Shri B. R. Bhagat):** No, Sir.

### BOARD OF ENGINEERING RESEARCH

***707. Shri Radha Raman:** Will the Minister of **Natural Resources and Scientific Research** be pleased to state:

(a) whether the survey made by the Board of Engineering Research recently revealed that the research and development in mechanical engineering in the country has been insignificant;

(b) whether certain recommendations have also been made by the Board in this connection; and

(c) if so, whether they have been implemented?

**The Deputy Minister of Natural Resources and Scientific Research (Shri K. D. Malaviya):** (a) to (c). A statement giving the required information is laid on the Table of the House. [*See* Appendix III, annexure No. 65.]

### DEVELOPMENT OF LIBRARIES

***713. Th. Jugal Kishore Sinha:** Will the Minister of **Education** be pleased to lay on the Table of the House a copy of the scheme of Library Development as approved by the Central Government and state progress so far made in this connection?

**The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das):** A statement is laid on the Table of the House. [*See* Appendix III, annexure No. 66.]

### EX-SERVICEMEN'S POST WAR RECONSTRUCTION FUND

***718. Mulla Abdullabhai:** Will the Minister of **Defence** be pleased to state:

(a) the amount spent by the Government of Madhya Pradesh out of the *ex*-Servicemen's Post War Reconstruction Fund during the financial year 1953-54;

(b) the sums spent under each head; and

(c) what sums have been sanctioned from the fund and for what schemes for the year 1954-55?

**The Deputy Minister of Defence (Sardar Majithia)**: (a) Rs. 67,303/11/3.

(b) The following expenditure was incurred under different heads during 1953-54:

| | Rs. | As. | P. |
|---|---|---|---|
| Grants & Loans to 359 Individual *ex*-servicemen and their dependents for resettlement and educational purposes | 56843 | 4 | 3 |
| Grant towards the expenses of the trainees at the Queen Mary's Technical School, Kirkee | 2387 | 12 | 0 |
| Grants to *ex*-servicemen's Club at Amravati, Yeotmal and Pachmarhi for maintenance | 3193 | 7 | 0 |
| Miscellaneous | 993 | 4 | 0 |
| Travelling allowance to Assistant Secretary | 1046 | 0 | 0 |
| Allowance to Assistant Secretary | 2600 | 0 | 0 |
| Allowance to clerk | 240 | 0 | 0 |
| Total | 67303 | 11 | 3 |

(c) Total sum of Rs. 95,810/7/- has been sanctioned from this Fund from the 1st April, 1954, to the 31st October 1954, for the purposes mentioned in reply to part (b) above. This also includes Rs. 35,000 advanced to the P.W.D. for the construction of an *ex*-servicemen's Club-*cum*-office of the District Soldiers', Sailors' and Airmen's Board building at Bilaspur.

### CURRENCY

***719. Sardar Iqbal Singh**: Will the Minister of **Finance** be pleased to state:

(a) the number of States where currencies of *ex*-princely Indian States is still in circulation;

(b) whether any loss has been incurred as a result of replacing the princely currencies; and

(c) whether Government will lay on the Table of the House a statement giving details of the princely coins with their denominations which have already been withdrawn from circulation?

**The Deputy Minister of Finance (Shri A. C. Guha)**: (a) Hyderabad is at present the only State where the old local currency is still in circulation as legal tender within the State.

(b) Some accounting loss represented by the difference between the face value and metal value of coins withdrawn was incurred by the Central Government. But this loss was counter-balanced by the profit arising out of the difference between face value and metal value of the Indian coins that replaced the withdrawn coins. Such accounting loss and profit is provided for even in the normal issues and withdrawals of current coins.

(c) A statement showing the particulars of *ex*-princely States coins with their denominations under process of withdrawal from circulation is laid on the Table of the Sabha. [*See* Appendix III, annexure No. 67.]

### BANKS BRANCHES ABROAD

***720. Shri G. L. Chaudhary**: Will the Minister of **Finance** be pleased to refer to the reply to starred question No. 1619 asked on the 6th April, 1954 and state:

(a) the latest position of the number of applications received from Banks under the Banking Companies Amendment Act, 1950 for opening branches outside India; and

(b) the number of cases where permission was given?

**The Deputy Minister of Finance (Shri A. C. Guha)**: (a) From 18th March, 1950 to 31st October, 1954, the Reserve Bank of India received applications from Indian banks for permission to open 35 branches outside India.

(b) Permission was given for opening 29 branches in 12 foreign countries.

### STERLING BALANCES

*727. **Shri D. C. Sharma:** Will the Minister of **Finance** be pleased to state the manner in which the Sterling Balances have been utilised so far during 1954-55?

**The Deputy Minister of Finance (Shri M. C. Shah):** Sterling balances are utilised for financing the over-all deficit in India's external accounts. The sterling balances have been drawn down to the extent of about Rs. 32 crores between the end of March 1954 and end of November, 1954. Preliminary figures for the quarter ending 30th June, 1954, show a current account deficit in the balance of payments of the order of Rs. 17 crores. Balance of payments figures after 30th June, 1954, have not yet become available.

### PENSIONS

*728. **Shri Bahadur Singh:** Will the Minister of **Finance** be pleased to state:

(a) whether it is a fact that considerable delay occurs in deciding the pension payable to retiring Government officials;

(b) the number of cases in the last five years which took over three years for determining the amount of pension payable; and

(c) if the answer to part (a) above be in the affirmative, what steps Government will take in this regard?

**The Deputy Minister of Finance (Shri M. C. Shah):** (a) and (c). It is not a fact that considerable delay generally occurs in sanctioning pensions to retiring Government servants. There have however been cases in which some delay has occurred due mainly to difficulty in verifying particulars of past service of retiring Government servants. In cases where considerable delay is expected an anticipatory pension is usually sanctioned on a provisional basis to avoid hardship.

To expedite sanctions to pensions, it has been decided that officers may submit their pension applications one year in advance of the date of their retirement so that necessary formalities and verification connected with the disposal of their pension papers may be completed before the due date.

(b) The requisite information will have to be collected from the various pension sanctioning authorities throughout the country. It is considered that the labour and time involved in doing so will be disproportionate to the result achieved.

### STAFF COMMITTEES

*730. **Pandit D. N. Tiwary:** Will the Minister of **Home Affairs** be pleased to state:

(a) whether Staff Committees in various Ministries have been set up; and

(b) if so, what has been the method of selection?

**The Deputy Minister of Home Affairs (Shri Datar):** (a) Staff Committees have been set up in many of the Ministries. Others have taken up the question and the Committees will be formed soon.

(b) A copy of the instructions issued is placed on the Table of the House. [*See* Appendix III, annexure No. 68.] Each Staff Committee consists of a Chairman, representatives of Government and of the Staff. Representatives of Government are nominated by the Ministry while representatives of staff are elected by members of each grade of staff.

### KALYANWALA COMMITTEE'S RECOMMENDATIONS

*731. **Shri H. N. Mukerjee:** Will the Minister of **Defence** be pleased to refer to the reply given to starred question No. 233 on the 30th August, 1954 regarding the Kalyanwala Committee's recommendations and place on the Table of the House a statement showing the number of employees benefited by each of the recommendations and the total expenditure incurred thereon?

**The Deputy Minister of Defence (Shri Satish Chandra):** The information is not available and its collection would entail labour and time to an extent which would not be commensurate with the utility of the information.

### DRAMATIC PERFORMANCES ACT, 1876

*733. **Dr. Rama Rao:** Will the Minister of **Home Affairs** be pleased to state:

(a) whether the attention of Government has been drawn to a recent judgment delivered in the Madras High Court that Section 6 of the Dramatic Performances Act of 1876 is not valid; and

(b) whether Government will now amend or repeal this Act?

**The Deputy Minister of Home Affairs (Shri Datar):** (a) Yes.

(b) No such proposal is under consideration.

### INSTRUCTIONS TO GOVERNMENT SERVANTS

*734. **Shri N. S. Jain:** Will the Minister of **Home Affairs** be pleased to state:

(a) whether any instructions have been issued to the Government servants to abstain from liquor drinks in clubs and parties and to abstain from attending functions or entertainments when such drinks are served; and

(b) if so, whether a copy of such instructions will be laid on the Table of the House?

**The Deputy Minister of Home Affairs (Shri Datar):** (a) Government of India have issued no such instructions.

(b) Does not arise.

### SMUGGLING

*737. **Mulla Abdullabhai:** Will the Minister of **Finance** be pleased to state:

(a) the number of check-posts existing on the Indo-Pakistan border in Punjab for preventing the smuggling of goods:

(b) how many cases of smuggling were detected on the Border in 1952-53 and 1953-54:

(c) the total value of the goods seized during these years; and

(d) the commodities which are generally smuggled?

**The Deputy Minister of Finance (Shri A. C. Guha):** (a) There are 8 Land Customs Stations and 16 land Custom Preventive Check-posts on the Punjab section of the Indo-Pakistan border.

(b) 196 and 192 cases of smuggling were detected during 1952-53 and 1953-54 respectively on this sector of the border.

(c) The total value of the goods seized on this sector of the border during 1952-53 and 1953-54 was Rs. 1,03,675 and Rs. 1,66,270 respectively.

(d) The principal commodities seized while being smuggled through this border were Gold and Silver thread, Art-silk, Muslin cloth, Black pepper, Cardamoms, Cloves, Gold, Silver and Silver-coins.

### FREE EDUCATION IN THE PUNJAB

*739. **Th. Jugal Kishore Sinha:**
**Shri Naval Prabhakar:**

Will the Minister of **Education** be pleased to state:

(a) whether any directive for the free education of boys under fourteen years has been given to the Punjab Government; and

(b) whether such instructions have been issued to other States as well?

**The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das):** (a) and (b). No.

### GEOLOGICAL SURVEY OF INDIA

*742. **Sardar Hukam Singh:** Will the Minister of **Natural Resources and Scientific Research** be pleased to state:

(a) whether any fresh areas were surveyed by the Geological Survey of India during 1954 so far; and

(b) if so, whether any new prospects of the availability of petroleum and other valuable minerals were found?

**The Deputy Minister of Natural Resources and Scientific Research (Shri K. D. Malaviya)**: (a) and (b). A statement giving the available information is laid on the Table of the House. [*Placed in the Library. See* No. S-463/54].

### CUSTOMS REGULATIONS

***743. Shri Krishnacharya Joshi:** Will the Minister of **Finance** be pleased to state the number of instances of infringement of Customs Regulations during 1954, so far?

**The Deputy Minister of Finance (Shri A. C. Guha)**: The total number of infringements of Customs and allied regulations detected by the Customs authorities during 1954 is 26,494, so far. These cases include infringements of the provisions of the Sea Customs Act and several other allied Acts and Regulations.

### NAVAL DOCKYARD WORKERS' STRIKE

***744. Shri T. B. Vittal Rao:** Will the Minister of **Defence** be pleased to state:

(a) the reasons for the Naval Dockyard Workers' strike at Bombay on the 2nd October, 1954; and

(b) the action taken by Government in the matter?

**The Deputy Minister of Defence (Shri Satish Chandra)**: (a) 2nd October 1954 had been declared as a holiday in Defence Establishments on account of Mahatma Gandhi's birthday. The question of a strike on that day, therefore, does not arise. Some of the employees, however, went on strike on 3rd October, 1954, as a protest against their being asked to work on Sunday for half a day. They have also demanded that the charge-sheets served on some of them for their participation during working hours on 22nd September 1954 in a demonstration in front of the office of the Captain Superintendent should be cancelled.

(b) The charge-sheets were subsequently withdrawn, as the representatives of the workers expressed regret in writing over the unfortunate incident and promised to exert their influence to prevent repetition in future.

### INSTRUCTIONS TO GOVERNMENT SERVANTS

***745. Shri N. S. Jain:** Will the Minister of **Home Affairs** be pleased to state:

(a) whether any instructions have been issued, to Government servants to abstain from accepting hospitalities and favours like use of conveyance, buildings etc. from moneyed people like industrialists, businessmen, *ex*-Rajas and Zamindars etc.; and

(b) if so, whether a copy of the instructions will be laid on the Table of the House?

**The Deputy Minister of Home Affairs (Shri Datar)**: (a) and (b). There are no specific instructions issued in the terms indicated in part (a) of the question. Government Servants Conduct Rules, however, prohibit Government servants from accepting, directly or indirectly any gift, gratuity or reward. There is also a provision in those Rules prohibiting gazetted officers from placing themselves under any pecuniary obligation to any person subject to his official authority or residing or possessing land or carrying on business within the local limits of such authority.

### WORLD FEDERATION OF WAR VETERANS

***746. Shri S. N. Das:** Will the Minister of **Defence** be pleased to state:

(a) whether, and if so, in what manner India was represented at the Council meeting of the World Federation of War Veterans recently held in Vienna;

(b) the nature of the subjects discussed and the decisions taken specially those having bearing on India; and

(c) the nature of advantages and obligations, financial or otherwise, that participation in this organisation involves?

**The Deputy Minister of Defence (Sardar Majithia):** (a) India was represented at the Council Meeting of the World Veterans Federation held on the 27th November, 1954, in Vienna by Shri D. S. Thakur, General Secretary, All India Gorkha *Ex*-Servicemen's Welfare Association.

(b) As the Council Meeting was held only on the 27th November, it has not been possible to obtain this information.

(c) Two of the objects of the Federation are to defend the material interests of war veterans and war victims by all legal and constitutional means through the mutual exchange of information on legislation concerning them and to develop a programme for the rehabilitation of the war disabled. We are, therefore, likely to benefit in these two spheres. The only financial obligation is the payment of a membership fee of approximately Rs. 1,500 year by each Association which joins it.

### DELHI POLICE

***747. Mulla Abdullabhai:** Will the Minister of **Home Affairs** be pleased to state:

(a) the number of complaints received during the year 1953-54 regarding corruption in the Police Department of Delhi;

(b) the number of cases in which investigations have been made; and

(c) the number of cases in which action has been taken on the results of the investigations?

**The Deputy Minister of Home Affairs (Shri Datar):**

| | 1953 | 1954 (upto 20-11-54) |
|---|---|---|
| (a) | 43 | 33 |
| (b) | 43 | 33 |
| (c) | 22 | 9 |

### FOREIGN AID

**527. Sardar Iqbal Singh:** Will the Minister of **Finance** be pleased to state:

(a) the amount of direct financial aid and loans (in rupees) received by India from foreign countries under various schemes up to the end of May, 1954;

(b) the instalments in which the amounts are to be repaid;

(c) the amount to be repaid during 1954-55; and

(d) when the last instalment is to be paid?

**The Deputy Minister of Finance (Shri M. C. Shah):** (a) to (d). The value of aid actually received in India upto 31st May 1954 in the shape of equipment and stores under various Foreign Aid Programmes is approximately Rs. 37·8 crores. This aid having been received on a grant basis, parts (b) to (d) of the question do not arise.

In regard to loans, India had taken up to 31st May 1954 five loans from the International Bank for Reconstruction and Development in Washington, besides the Wheat Loan from the U.S. Government. The details are given in the annexure. [*See* Appendix III, annexure No. 69.]

### LAW OFFICERS

**528. Sardar Iqbal Singh:** Will the Minister of **Law** be pleased to state:

(a) the number of senior Law Officers under the Central Government other than the Attorney-General and the Solicitor-General;

(b) the names of such officers and the posts they occupy;

(c) whether any of such officers was practising before recruitment as a Solicitor: and

(d) the terms and conditions of service of such posts?

**The Minister of Law (Shri Biswas):** The expression "Senior Law Officers" occurring in the question is not understood. Assuming that the Member wants information in respect of the Law Officers under the administrative control of the Law Ministry, the answers are as follows:—

(a) Two.

(b) Shri S. K. Mandal and D. P. Sethna, Solicitors to the Central Government at Calcutta and Bombay respectively.

(c) Yes; both were and are practising Solicitors.

(d) The Solicitors are required to perform such portion of civil legal business of the Central Government in Calcutta and Bombay respectively, as is assigned to them, including all litigation in courts, and also to advise Departments of the Central Government located in these places, as well as to attend to the conveyancing work of such Departments. They are also responsible for criminal business of an advisory nature for the Departments of the Central Government in these places.

2. Each of the Solicitors is paid a monthly retainer of Rs. 1,000 (one thousand only) per mensem which includes all in pocket or profit costs chargeable in respect of work done for the Government. They are also entitled to retain in civil suits all costs awarded to Central Government in respect of Solicitor's fees, if realised. Besides the retainer, the Solicitor at Calcutta is paid an office allowance of Rs. 150 per mensem.

3. The Solicitors are allowed private practice but are not allowed to accept retainers from any State Government or to appear, act or give advice for any other party in any matter likely to affect the Government of India.

4. The Solicitors are not entitled to any pension or leave with pay.

### SOCIAL WELFARE ADVISORY BOARD, WEST BENGAL

529. **Shri N. B. Chowdhury:** Will the Minister of **Education** be pleased to state:

(a) whether any State Social Welfare Advisory Board has been set up in West Bengal; and

(b) if so, whether the Board has started any Welfare Extension Project?

**The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das):** (a) Yes.

(b) Yes, five projects have so far been undertaken.

### पुस्तकालयों को सहायता

५३०. **श्री एम० एल० द्विवेदी :** क्या शिक्षा मंत्री यह बताने की कृपा करेंगे कि सरकार ने १९४७ से अगस्त, १९५४ तक कितने पुस्तकालयों को सहायता दी है ?

**The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das):** The information is being collected and will be laid on the Table of the House in due course.

### साहित्यिक कार्य के लिए सहायता

५३१. **श्री एम० एल० द्विवेदी :** क्या शिक्षा मंत्री यह बताने की कृपा करेंगे कि :

(क) सरकार ने १९४७ से अगस्त, १९५४ तक किन-किन लेखकों को उनकी विपन्नावस्था में सहायता दी है ;

(ख) इसी समय में किन-किन लेखकों को अपनी साहित्यिक गतिविधि बनाये रखने के लिये वित्तीय सहायता दी गई है ; और

(ग) भाग (ख) में उल्लिखित लेखकों की पुस्तकों के नाम, मूल्य और उन के प्रकाशकों के नाम क्या हैं ?

**The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das):** (a) to (c). The information is being collected and will be laid on the Table of the House in due course.

### NATIONAL RESEARCH DEVELOPMENT CORPORATION

532. **Sardar Hukam Singh:** Will the Minister of **Natural Resources and Scientific Research** be pleased to refer to the answer given to part (b) of the unstarred question No. 471, dated the 15th September, 1954 and lay a statement on the Table of the House showing the names of the various inventions and processes that have been put to commercial and industrial usages so far?

**The Deputy Minister of Natural Resources and Scientific Research (Shri K. D. Malaviya):** A statement giving the required information is attached. [*See* Appendix III, annexure No. 70].

### ORDNANCE FACTORIES

533. **Sardar Hukam Singh:** Will the Minister of **Defence** be pleased to state:

(a) the value of civil trade work done in the Ordnance Factories during 1954 so far; and

(b) the value of goods manufactured for the use of other Government departments in Ordnance Factories during the same period?

**The Deputy Minister of Defence (Shri Satish Chandra):** (a) and (b). A statement showing the value of work done in Ordnance Factories from January, 1954 to August, 1954 for civil indentors and Government Departments is placed on the Table of the House [*See* Appendix III, annexure No. 71.] Figures for September onwards are not yet available.

### SALE OF WOMEN

534. **Shri D. C. Sharma:** Will the Minister of **Home Affairs** be pleased to state:

(a) whether any instances of sale of women have been brought to the notice of Government during 1953-54;

(b) if so, the names of the areas where such instances have taken place;

(c) the number of women so sold; and

(d) the reasons generally for such sale?

**The Deputy Minister of Home Affairs (Shri Datar):** (a) to (d). No such instance has been brought to the notice of the Government of India.

### *Ex*-SERVICEMEN'S POST WAR RECONSTRUCTION FUND

535. **Shri D. C. Sharma:** Will the Minister of **Defence** be pleased to refer to the answer given to unstarred question No. 59 asked on the 25th August, 1954 and state:

(a) the amount deposited in the *Ex*-Servicemen's Post War Reconstruction Fund of the Punjab State;

(b) what amount has since been spent so far out of this fund; and

(c) how it has been spent?

**The Deputy Minister of Defence (Sardar Majithia):** (a) Rs. 1,57,80,127-8-6.

(b) Rs. 35,23,785-12-2 upto the 30th September 1954.

(c) The money has been spent on stipends or scholarships for education of the children of *ex*-Servicemen, technical and vocational training for *ex*-Servicemen; establishment of Fauji Sarais, Libraries, medical aid to persons suffering from T.B. and other wasteful diseases; provision of sewing machines to disabled *ex*-Servicemen and widows of beneficiary *ex*-Servicemen; settlement of *ex*-Servicemen in land colonies, Transport Co-operative Societies and establishment charges for the administration of the Fund.

### GANJA

536. **Shri D. C. Sharma:** Will the Minister of **Finance** be pleased to state:

(a) the quantity of Ganja produced in the years 1952-53 and 1953-54 in India;

(b) the quantity of Ganja exported from and consumed in India during the above period;

(c) the number of permit holders for the export of Ganja during the above period; and

(d) the cases of smuggling of Ganja detected in India during the above period?

**The Deputy Minister of Finance (Shri A. C. Guha)**: (a) The quantity for the calendar years 1952 and 1953 was 4,363 mds. 1 seer and 2,399 mds. 20 seers respectively.

(b) *Exports*

It is not possible to give separate figures for Ganja as both Ganja and Bhang are exported under the heading "Indian Hemp".

The quantities of Indian Hemp exported during the years 1952-53 and 1953-54 were:—

| | | | |
|---|---|---|---|
| 1952-53 | .. | .. | Nil. |
| 1953-54 | .. | .. | 13 mds. 25 seers |

*Consumption*

| | | | Mds. | Srs. |
|---|---|---|---|---|
| 1952-53 | | .. | 2151 | 36 |
| 1953-54 | .. | .. | 2055 | 7 |

The figures for the year 1952-53 do not include the information relating to the States of Himachal Pradesh and Kutch, while those for the year 1953-54 exclude information regarding the States of Bombay, Uttar Pradesh, Himachal Pradesh and Kutch.

(c) The information is not available as the particulars relating to the exporters of Ganja are maintained by the State Excise Authorities.

(d) The number of cases of smuggling of Ganja detected during the years 1952-53 and 1953-54 are:—

| Year | | | Number of cases |
|---|---|---|---|
| 1952-53 | .. | | 8604 |
| 1953-54 | .. | .. | 8626 |

MURDERS IN DELHI

537. { **Shri Nageshwar Prasad Sinha:**
**Shri L. Jogeswar Singh:**

Will the Minister of **Home Affairs** be pleased to state:

(a) the number of murders which were committed in Delhi in the year 1953 and in 1954 till September;

(b) the number of cases in which the accused persons were put on trial; and

(c) the number of cases in which the accused remained untraced?

**The Deputy Minister of Home Affairs (Shri Datar)**: (a) Number of Murders committed in Delhi were 59 and 53 in the years 1953 and 1954 (upto the 30th September, 1954), respectively.

| | 1953 | 1954 (upto the 30th September, 1954) |
|---|---|---|
| (b) | 36 | 31 |
| (c) | 23 | 18 (4 cases are under investing action) |

RESETTLEMENT OF *Ex*-SERVICEMEN

538. **Shri Krishnacharya Joshi:** Will the Minister of **Defence** be pleased to state:

(a) whether the work of building a large colony at Manunagar in Uttar Pradesh for the resettlement of *ex*-Servicemen has been completed; and

(b) what are the other schemes for helping the *ex*-Servicemen to make a fresh start in life?

**The Deputy Minister of Defence (Sardar Majithia)**: (a) Not yet. 300 acres of land are yet to be reclaimed, 30 settlers quarters, 4 Primary Schools and one Middle School still remain to be built.

(b) Other schemes for helping *ex*-servicemen of Uttar Pradesh are:

(1) Settlement on land in Afzalgarh Colony, Bijnor District.

(2) Employment in Government/Private service.

(3) Vocational/Technical Training.

### REMISSION OF INCOME-TAX

**539. Pandit D. N. Tiwary:** Will the Minister of **Finance** be pleased to state:

(a) whether it is a fact that after final assessment, Income-tax Commissioners remit income-taxes in hard cases, where the assessees show their incapacity to pay; and

(b) if so, the number of such remissions State-wise, in 1952-53 and 1953-54?

**The Deputy Minister of Finance (Shri M. C. Shah):** (a) No, Sir; once an assessment has been lawfully made and has become final and conclusive, the Commissioner of Income-tax has no power to remit income-tax in hard cases where the assessees merely show their incapacity to pay.

(b) Does not arise.

### INVESTMENT BY INDIANS ABROAD

**540. Shri Gidwani:** Will the Minister of **Finance** be pleased to state:

(a) whether it is a fact that the double taxation laws are preventing Indians in foreign countries from bringing capital into India; and

(b) if so, what steps are proposed to be taken to allow free import of capital by Indians abroad for investment in desired channel?

**The Deputy Minister of Finance (Shri M. C. Shah):** (a) No, it is not a fact. Under the Indian Income-tax Act, tax is payable on remittance of profits, as distinguished from capital, only in the case of persons residing in India. As Indians in foreign countries will generally be not resident in India, they do not have to pay any tax here on money remitted to India.

(b) Does not arise.

### ECONOMY IN ARMED FORCES

**541. Shri Bhagwat Jha Azad:** Will the Minister of **Defence** be pleased to state:

(a) the nature of the economy acts proposed during the year 1954 for the Armed Forces of all kinds;

(b) the extent to which they have been applied and the economy that has actually been effected; and

(c) whether Government propose to retrench any of the personnel under this head?

**The Deputy Minister of Defence (Shri Satish Chandra):** (a) to (c). The expenditure on 'Defence Services' is under constant review, and measures of economy are effected as and when they become feasible. For instance certain economies have been made in movements, communications, works services, foodstuffs and Petrol Oil and Lubricant, equipment and stores, and by reduction of scales, and lowering of specifications of Ordnance stores and by finding alternate uses of surplus items in stock. There have also been some improvements in packing and preservation of stores and equipment; manufacture, design and reconditioning of stores and utilisation of surplus stores. It is difficult to give an exact idea of the financial effect of these measures, but an overall economy of about 6 crores recurring, and 4·50 crores initial has been proposed a part of which may not be reflected in the current financial year.

### DICTIONARY OF ECONOMIC PRODUCTS AND INDUSTRIAL RESEARCH

**542. Shri Bhagwat Jha Azad:** Will the Minister of **Natural Resources and Scientific Research** be pleased to state:

(a) the number of volumes of the Dictionary of Economic Products and Industrial Research that have been published so far; and

(b) whether the whole work has been finished?

**The Deputy Minister of Natural Resources and Scientific Research (Shri K. D. Malaviya):** (a) The following volumes and parts of the work "Wealth of India" (Dictionary of Indian Raw Materials and Industrial products) have been published so far:—

Raw Materials—Vol. I (A-B).
Raw Materials—Vol. II (C).
Raw Materials—Vol. III (D-E).
Industrial Products Part I (A-B).
Industrial Products Part II(C).
Industrial Products Part III(D-E).

(b) No, Sir.

### समाज कल्याण बोर्ड

**५४३. सेठ गोविन्द दास :** क्या शिक्षा मंत्री यह बताने की कृपा करेंगे कि :

(क) समाज कल्याण बोर्ड के कार्यकर्ताओं में कितने पुरुष हैं और कितनी स्त्रियां ;

(ख) क्या विभिन्न राज्यों में ऐसे राज्य सहायता प्राप्त संगठनों में पुरुष बहुलता है या स्त्री बहुलता ; और

(ग) जनवरी से सितम्बर, १९५४ तक के समय में बोर्ड ने कितना व्यय किया और कितने व्यक्तियों की सेवा की ?

**The Parliamentary Secretary to the Ministry of Education (Dr. M. M. Das):** (a) The total number of employees of the Central Social Welfare Board (including class IV servants) is as follows:—

Men—63.

Women—23.

(b) Information regarding the "workers" in the aided organisations is not available. If by workers, the Honourable member means "members", a majority of them consists of women.

(c) The Central Social Welfare Board gives grants to voluntary social welfare organisations and not to individuals.

The Board spent altogether Rs. 17,11,380/-/6 during the period January to September, 1954.

### राजस्थान में हवाई अड्डे

**५४४. श्री पी० एल० बारूपाल :** क्या रक्षा मंत्री यह बताने की कृपा करेंगे कि :

(क) विगत विश्व युद्ध में रक्षा मंत्रालय ने राजस्थान में कितने हवाई अड्डे बनाये थे ;

(ख) उन में से कितने अच्छी हालत में हैं ; और

(ग) नाल (बीकानेर) हवाई अड्डे पर कितने मकान बनाये गये थे और उन में से अब कितने अचछी हालत में हैं ?

**The Deputy Minister of Defence (Sardar Majithia):** (a) Six.

(b) Four.

(c) Nal aerodrome was constructed for the Air Force by the Public Works Department of the then State Government of Bikaner. That Department is not in a position to furnish the information regarding the number of buildings constructed on the aerodrome as their old records are not readily available. The airfield was transferred to the State Government in May 1948 and was taken back by the I.A.F. in 1950-51 with 26 buildings in good condition.

### TECHNICAL EDUCATION

**545. Shri Ibrahim:** Will the Minister of **Education** be pleased to state:

**(a)** whether there is any proposal regarding sanctioning of loans to students who take up technical education in India;

**(b)** if so, what are the conditions for the grant of these loans; and

**(c)** the number of students who benefited under the scheme (State-wise) during the years 1952-53 and 1953-54?

**The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das):** (a) No.

(b) and (c). Do not arise.

### SOLAR COOKER

**546. Shri Bahadur Singh:** Will the Minister of **Natural Resources and Scientific Research** be pleased to state whether the Solar Cooker manufactured in India was demonstrated on the British Broadcasting Corporation Television Science programme during the month of October 1954?

**The Deputy Minister of Natural Resources and Scientific Research (Shri K. D. Malaviya):** Yes, Sir.

### SCHOLARSHIPS TO BACKWARD CLASSES (MYSORE)

**547. Shri Keshavaiengar:** Will the Minister of **Education** be pleased to state the total amount allotted to the State of Mysore for grant of scholarships from the Centre for Backward Classes and Harijans for the years 1952-53, 1953-54, 1954-55?

**The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das):** No allocation of funds available under the Government of India Scheme of scholarships to Scheduled Castes, Scheduled Tribes and Other Backward Classes is made to the States. A statement showing the expenditure on scholarships awarded to the Scheduled Castes and Other Backward Classes students belonging to Mysore State, since the year 1952-53 is laid on the Table of the House. [*See* Appendix III, annexure No. 72.]

### IRON ORES IN KORAPUT DISTRICT (ORISSA)

**548. Shri Sanganna:** Will the Minister of **Natural Resources and Scientific Research** be pleased to state:

(a) whether Government are aware that iron ores are available in the Omerkote area of Koraput District, Orissa; and

(b) if so, whether any report has been called for from the Government of Orissa in this respect?

**The Deputy Minister of Natural Resources and Scientific Research (Shri K. D. Malaviya):** (a) and (b). A statement giving the available information is attached. [*See* Appendix III, annexure No. 73.]

### उज्जैन में खुदाई का काम

**५४९. श्री राधे लाल व्यास :** क्या शिक्षा मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या इस वर्ष उज्जैन में पुरातत्वसंबंधी खुदाई के लिये कोई योजना बनाई गई है ;

(ख) यदि हां, तो उस योजना के लिये कितनी रकम स्वीकार की गई है ; और

(ग) यह कार्य कब प्रारम्भ होगा ?

**The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das):** (a) Yes.

(b) Rs. 10,000.

(c) In January, 1955.

### AID TO SOCIAL WELFARE ORGANISATIONS

**550. Shri Ram Dass:** Will the Minister of **Education** be pleased to state:

(a) the amount given as grants or loans to the Social Welfare Organisations doing important cultural and educational work in the country during the year 1953-54; and

(b) the names of these organisations. State-wise?

**The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das):** (a) and (b). A statement giving the requisite information is attached [*See* Appendix III, annexure No. 74.]

### PROMOTIONS IN THE ARMY

**551. Sardar Hukam Singh:** Will the Minister of **Defence** be pleased to refer to the reply given to starred question No. 1295 on the 22nd December, 1953 and state:

(a) the number of officers who failed to qualify themselves in the 'Promotion Examinations' before the 30th June, 1954; and

(b) whether any officers of the rank of Captains and Majors had to be discharged on account of their failure to so qualify themselves before that date?

**The Deputy Minister of Defence (Sardar Majithia)**: (a) 322.

(b) None.

### YOUTH WELFARE

552. **Sardar Iqbal Singh**: Will the Minister of **Education** be pleased to state the role that the United Nations have played to help Youth Welfare in India?

**The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das)**: There is no direct contribution made by the United Nations but valuable suggestions were made by the United Nations Youth Welfare Seminar held in Simla in November, 1951, on the problems of youth and youth welfare activities.

### EXCISE DEPARTMENT LAUNCH

553. **Shri S. C. Samanta**: Will the Minister of **Finance** be pleased to state:

(a) whether a launch named "Mary" belonging to the Excise Department of the Government of India was sent to Narayanganj for repairs in 1947:

(b) if so, whether it has been received back, and when;

(c) if the answer to part (b) above be in the negative, what are the difficulties in getting it back; and

(d) the estimated value of the launch?

**The Deputy Minister of Finance (Shri A. C. Guha)**: (a) to (c). The motor launch in question, which was under repairs at Calcutta in 1947, was not sent to Narayanganj for repairs but was handed over to the Government of Pakistan as a result of division of Assets and Liabilities of United India, in 1947.

(d) The estimated value of the launch was Rs. 1,40,000.

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# LOK SABHA DEBATES Dated....27.11.2014

## (Part II—Proceedings other than Questions and Answers)

### LOK SABHA

*Friday, 3rd December, 1954*

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*The Lok Sabha met at Eleven of the Clock.*

[MR. SPEAKER *in the Chair.*]

QUESTIONS AND ANSWERS

(*See Part* I).

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12-06 P.M.

### MOTION FOR ADJOURNMENT

### SATYAGRAHA MOVEMENT IN MANIPUR

**Mr. Speaker:** Adjournment Motion of Shri M. S. Gurupadaswamy. Dr. Katju was to make a statement of the facts.

**The Minister of Home Affairs and States (Dr. Katju):** With your permission, may I read a statement?

**Mr. Speaker:** Yes.

**Dr. Katju:** Shri Rishang Keishing, M.P., and the Praja-Socialist Party in Manipur have, for some time now been demanding the establishment of a Legislative Assembly and a responsible Ministry in the State. When the Part C States Act was passed in 1952, Legislatures and responsible Ministries were set up in the various 'C' States. An exception was made with regard to Kutch, Tripura and Manipur. These States are strategically situated on the borders of India. The people are still comparatively politically backward and the administrative machinery in these States is weak. It was not considered therefore expedient under the Part C States Act immediately to set up legislatures and Ministries in these States. Advisers were appointed. Since then, the States Reorganisation Commission has been appointed and is expected to report to Government in about six months' time. We cannot yet foresee what changes in State boundaries the Commission is likely to recommend and what changes are likely to take place. When, therefore, Shri Rishang Keishing approached me and the Prime Minister for the immediate establishment of a legislature and a Ministry in Manipur, he was advised to be patient and await the publication of the States Reorganisation Commission's Report. He was told that when the future of the States become clear, the question of setting up of a legislature would be examined. Shri Rishang Keishing and the Praja-Socialist Party were, however, unable to hold themselves in patience and decided to launch a Satyagraha movement from November, 15, 1954.

The form which the Praja-Socialist Party Satyagraha in Manipur has assumed is to take out a procession and to hold a public meeting every day. These processions are sometimes joined by students and sometimes by a number of women. The authorities have not in the least interfered with either the processions or the holding of meetings or the passing of resolutions. This, however, did not satisfy the Praja-Socialist Party. They, therefore, decided to collect crowds every day in front of the Secretariat and the Advisers offices. On the first few days the crowd surged into the offices and were with great difficulty pushed out of the office rooms and the compound. Later, they were held by the police at the gates of these officers. They, however, collected

[Dr. Katju]

at the gates and tried forcibly to prevent the Government staff from entering into the Secretariat and the Advisers from attending their officers. Their intention apparently was to prevent the Advisers working and to force them to resign from the Council of Advisers. When a crowd collects and prevents people from going about their lawful business, it can hardly be described as Satyagraha. In any case, it is not possible for the Manipur administration to close down the Secretariat or for the Advisers to stop working in their offices. On these occasions therefore, the police tried to disperse the crowds by pushing them out so that the Advisers and others who are going about their lawful business, might come to their offices. For this purpose it became necessary to use some force against the crowd which refused to disperse and which manhandled the police preventing them from clearing a passage for the Advisers.

Shri M. S. Gurupadaswamy's adjournment motion relates to the events of the 10th November, 1954. Until that date the police had never resorted to any *lathi* charge whatever. They had merely pushed out the crowds when necessary to make way for the Advisers to go to their office. The demonstrators on their side had been manhandling the police and causing injuries to constables and a sub-inspector. Neither Shri Rishang Keishing nor Shri Sumarendra Singh had been arrested on the 18th November. In fact, Shri Rishang Keishing had not been arrested at all. Shri Sumarendra Singh was arrested only on the 29th of November. Until the 18th November, only one person had been arrested and seven prosecutions cases involving 19 persons had been instituted in Court. The one arrested person has since been convicted and sentenced by the Magistrate to three months' simple imprisonment. On the 18th of November the position was that only six of the demonstrators had received minor injuries like abrasions in their hand to hand struggle with police. No one had received any kind of serious injury by that date. One sub-inspector of police had been attacked by the demonstrators. Two constables had received injuries and were medically examined. Other constables also received minor injuries, but they were not sent up for medical examination.

To complete the narrative right up to date, the first occasion when what may be described as a *lathi* charge took place was on November 25th. On that date about 200 persons collected in front of the Advisers' offices and were held up by the police at the gates. When the Advisers reached their offices, the group prevented their entry. There was a magistrate on duty at the spot and he declared the group to be an unlawful assembly. The demonstrators refused to heed the warning to disperse. Thereupon, the police attempted to push the group back in order to make a passage for the Advisers. On this, the group became defiant and started instead to push the police back and to attack them. The magistrate then ordered the police to use their bamboo sticks on the group to disperse them. The police used their sticks and the crowd then dispersed. It may be stated that though this has been described as a *lathi* charge, the bamboo sticks with which the Manipur police are armed on such occasions are not lathis of the type which are used by the police in North India. They are very light hollow bamboo sticks and not the solid type shod with metal which are used by the police in this part of the country.

According to the latest reports received from the Chief Commissioner, the total number of demonstrators injured in all these incidents is 73, while 24 policemen have also been injured. A head constable of the police actually received a wound from a sharp weapon on the 27th.

I understand that the student community of Manipur have now withdrawn their support to this movement of the Praja-Socialist Party. The other members of the public also appear to be lukewarm with the result that the number of demonstrators now appearing at the gates of offices is very small —about five or six every day. Therefore, the police have had no occasion at all to use any kind of force to remove these demonstrators after the 27th. There have been no incidents at all after November 27th, when the students held a meeting and disassociated themselves from the movement.

This is right up to date.

**Shri M. S. Gurupadaswamy** (Mysore): May I make a submission?

**Mr. Speaker:** Has the hon. Member any personal knowledge of what happened there?

**Shri M. S. Gurupadaswamy:** Not personal knowledge in the sense that I have gone there, but I have received telegrams.

**Mr. Speaker:** I do not think I need go by the telegrams which the hon. Member may have received. Here is authentic official information which is certainly more reliable, and I do not think I need give my consent to this adjournment motion.

**Shri M. S. Gurupadaswamy:** This official report is not authentic. That is my point. It is prejudiced and one-sided.

**Mr. Speaker:** The only point that I have in my mind is that I do not wish to allow the hon. Member to use the floor of this House for spreading information which may have no basis at all. Here is the official report which is certainly far more reliable than any telegrams or any letters received. That is why I first made the inquiry as to whether the hon. Member has personally been there. I do not want to go by reports.

**Shri M. S. Gurupadaswamy:** It was not possible to go and see things for myself. Is it ever possible to do so? Has the Home Minister gone there himself?

**Mr. Speaker:** The Home Minister has got his authorised agents who give him information. (*Interruption*). I need not go into that point. It is wrong to use the floor of the House for purposes of giving the reports which are merely.....

**Several Hon. Members** *rose*—

**Shri Asoka Mehta** (Bhandara): May I point out one thing?......

**Mr. Speaker:** I am not going to give my consent to this adjournment motion.

**Shri Asoka Mehta:** May I make one submission on this point? You have made a certain statement. Would you permit me to point out that one of our colleagues, who is a Member of this House, is involved in it? We have been receiving communications from him. If it were somebody else, we may not be sure. But when a colleague of ours, who is a Member of this House is there, and he reports to us, surely we are entitled to put the same trust in his words as we are called upon to put trust in the words of the Home Minister.

**Mr. Speaker:** It is a question of weighing evidence and giving *prima facie* weight to facts coming. I give *prima facie* more weight to this. I do not give much weight to reports coming from interested quarters.

**Shri Asoka Mehta:** He is a Member of this House.

**Mr. Speaker:** He may be a Member of this House. But that does not make much difference, so far as the interests of the parties are concerned.

**Shri M. S. Gurupadaswamy:** Government also are interested.

**Mr. Speaker:** It is their business to maintain law and order. They have no interest in this or that.

**Shri S. S. More** (Sholapur): Is this democracy?

**Mr. Speaker:** It may be anything. I do not want to hear anything more on this point.

**Shri Raghavachari** (Penukonda): May I make a submission?

✓ **Mr. Speaker:** He can have a discussion with me in the Chamber, if he likes.

**Shri Raghavachari:** It is not a matter for private talk. (*Interruptions*).

**Mr. Speaker:** I am proceeding to the next business Papers to be laid.

**Shri M. S. Gurupadaswamy:** On a point of order......

**Mr. Speaker:** No points of order now.

**Shri M. S. Gurupadaswamy:** On a point of order...

**Mr. Speaker:** No points of order now. There is no point of order. He can discuss the matter with me in the Chamber.

**Shri Raghavachari:** May I submit that this kind of treatment is not justifiable.

**The Deputy Minister of Commerce and Industry (Shri Kanungo):** I beg to lay the following......

**Shri N. C. Chatterjee** (Hooghly): Can you rule out the point of order?

**Mr. Speaker:** There is no point of order. It is no use insisting upon that thing, because there is no point of order.

**Shri N. C. Chatterjee:** We feel we are being gagged by you, and we feel that it is our duty to ventilate the legitimate grievances, and we are denied that right.

**Mr. Speaker:** That may be. I am not prepared to give consent to this motion, on the facts as disclosed by the hon. Minister.

**Shri M. S. Gurupadaswamy:** As a protest, I walk out. I do not want to be here.

**Shri A. K. Gopalan** (Cannanore): you must hear the point of order.

**Mr. Speaker:** I told him that he can come and have a talk with me in my Chamber.

**Shri S. S. More:** May I know under what rule?

✓ **Mr. Speaker:** I do not want to allow the floor of the House for the purposes of any argument whatsoever.

**Shri S. S. More:** With due deference to you, may I know the rule under which a Member who is out to raise a point of order should see you in your Chamber privately, because it is the privilege of the House to hear the point of order?

**Mr. Speaker:** Because, to be very frank and plain about it, I do not see what point of order can arise. I want to examine first as to whether there is a real point of order to justify Members taking up the time of the House. (*Interruption*). Order, order. That is not the way of conducting the proceedings. Now, papers to be laid on the Table.

**Shri Kanungo:** I beg to lay on the Table of the House the following papers under sub-section (2) of section 16 ......

**Shri A. K. Gopalan:** May I make a submission?

**Mr. Speaker:** Later.

**Shri A. K. Gopalan:** We feel that after the ruling that has been given now, and the attitude that has been shown towards us, especially a Member of Parliament who had been involved in this, and who had sent some information, which information the Chair was not ready even to hear, we feel after being treated like this that it is better for us not to be present.

**Mr. Speaker:** It is a choice of the hon. Members. I cannot yield to pressure tactics. ✓

## PAPERS LAID ON THE TABLE

### TARIFF COMMISSION'S REPORT ON ZIP FASTENER SEWING MACHINES AND PICKERS INDUSTRIES AND GOVT. RESOLUTIONS THERETO.

**The Deputy Minister of Commerce and Industry (Shri Kanungo):** I beg to lay on the Table a copy of each of the following papers, under sub-section (2) of section 16 of the Tariff Commission Act, 1951, namely:

(i) Report of the Tariff Commission on the continuance of protection to the Zip Fastener Industry, 1954. [*Placed in Library. See* No. S—457/54.]

(ii) Ministry of Commerce and Industry Resolution No. 63 (1)-T.B./54, dated the 1st December, 1954. [*Placed in Library. See No.* S—457/54.]

(iii) Tariff Commission letter No. TC/ID/E/82-R, dated the 6th September, 1954. together with its endorsement dated the 10th September, 1954. [*Placed in Library, See* No. S—457/54.]

(iv) Report of the Tariff Commission on the continuance of protection to the Sewing Machine Industry, 1954. [*Placed in Library, See* No. S—458/54.]

(v) Ministry of Commerce and Industry Resolution No. 18(5)—T B./54, dated the 1st December, 1954. [*Placed in Library. See* No. S—458/54.]

(vi) Report of the Tariff Commission on the continuance of protection to the Pickers Industry, 1954. [*Placed in Library, See* No. S—459/54.]

(vii) Ministry of Commerce and Industry Resolution No. 26(1)-T. B./54, dated the 1st December, 1954. [*Placed in Library. See* No. S—459/54.]

### NOTIFICATION MAKING FURTHER AMENDMENT TO CINEMATOGRAPH (CENSORSHIP) RULES, 1951

**The Deputy Minister of Commerce and Industry (Shri Kanungo):** I beg to lay on the Table, under sub-section (3) of section 8 of the Cinematograph Act, 1952, a copy of the Notification No. S.R.O. 3474, dated the 17th November, 1954, making certain further amendment to the Cinematograph Censorship). Rules, 1951. [*Placed in Library, See* No. S—460/54.]

### NOTIFICATIONS UNDER SEA CUSTOMS ACT

**The Deputy Minister of Finance (Shri A. C. Guha):** I beg to lay on the Table a copy of each of the Customs Notifications Nos. 87 and 118, dated the 21st August and 9th October, 1954 respectively, under sub-section (4) of section 43B of the Sea Customs Act, 1878, as inserted by the Sea Customs (Amendment) Act, 1953. [*Placed in Library. See* No. S—461/54.]

### NOTIFICATIONS UNDER CENTRAL EXCISES AND SALT ACT

**The Deputy Minister of Finance (Shri A. C. Guha):** I beg to lay on the Table a copy of each of the following Central Excises Notifications, under section 38 of the Central Excises and Salt Act, 1944:

(i) Notification No. 36, dated the 31st August, 1954. [*Placed in Library. See* No. S—462/54.]

(ii) Notification No. 38, dated the 3rd September, 1954. [*Placed in Library. See* No. S—462/54.]

(iii) Notification No. 41, dated the 15th October, 1954. [*Placed in Library. See*, No. S—462/54.]

(iv) Notification No. 42, dated the 1st November, 1954. [*Placed in Library. See* No. S—462/54.]

With your permission, I like to add that the House may be interested to know that the last item relates to the integration of the former French territories with India. I think this is the first Notification to that effect. laid on the Table of the House.

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## COMMITTEE ON ABSENCE OF MEMBERS FROM SITTINGS OF THE HOUSE.

### SIXTH REPORT

**Shri Altekar** (North Satara): I beg to present the Sixth Report of the Committee on Absence of Members from the sittings of the House.

## UNTOUCHABILITY (OFFENCES) BILL

### PRESENTATION OF REPORT OF JOINT COMMITTEE

**Shri Barman** (North Bengal—Reserved—Sch. Castes): I beg to present the Report of the Joint Committee on the Bill to prescribe punishment for the practice of untouchability or the enforcement of any disability arising therefrom.

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## GOVERNMENT PREMISES (EVICTION) AMENDMENT BILL

### EXTENSION OF TIME FOR PRESENTATION OF REPORT OF SELECT COMMITTEE.

**Pandit Thakur Das Bhargava** (Gurgaon): I beg to move:

> "That the time appointed for the presentation of the Report of the Select Committee on the Bill further to amend the Government Premises (Eviction) Act, 1950, be extended up to the 31st of March 1955."

**Mr. Speaker**: The question is:

> "That the time appointed for the presentation of the Report of the Select Committee on the Bill further to amend the Government Premises (Eviction) Act, 1950, be extetnded up to the 31st of March 1955."

*The motion was adopted.*

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## CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.—*contd.*

**Mr. Speaker**: We shall now take up the clause by clause consideration of the Code of Criminal Procedure (Amendment) Bill, and the amendments that have been moved.

**Shri Venkataraman** (Tanjore): The amendments may be read out.

**Mr. Speaker**: I am coming to that later.

The other day certain points were raised in connection with amendment Nos. 369, 53, 287, 172 and 380 to clause 22. Certain arguments were advanced saying that the amendments were in order. I heard the arguments and stated that I would consider the matter and give my considered ruling. Now I am giving that ruling in respect of those amendments.

The question is whether amendment No. 369 by Pandit Thakur Das Bhargava and Nos. 53 and 287 by Shri R. D. Mishra to section 161 of the principal Act and amendment No. 372 by Pandit Thakur Das Bhargava to section 172 of the principal Act are in order, *i.e.*, within the scope of the amending Bill inasmuch as sections 161 and 172 of the principal Act are not touched by the Amending Bill.

It is contended that, though these amendments are to sections other than a section touched by the Amending Bill, the amendments are "closely related" or "interconnected" or "vitally connected" with section 162, sought to be amended by the present Bill and it is further contended that amendment of section 162 goes to the root of the scheme laid down as a whole by the body of sections in Part V of the Criminal Procedure Code. The case is, therefore, that unless section 161 of the principal Act is amended, section 162 cannot be amended. The further argument is that the amended section 162 refers specifically to provisions of section 161 and therefore amendments to section 161 are within the scope of the Bill. A further point is made that the amendments are relevant to the subject.

Arguments were exhaustively advanced in support of the said amendments being within the scope of the Bill. I have not only heard the arguments but have carefully gone through the Scheme of Part V (Sections 154 to 176) of the Criminal Procedure Code before coming to my conclusions.

I shall take for consideration amendments Nos. 369, 53 and 287, which propose to amend, in certain respects, section 161 of the Criminal Procedure Code. The amending Bill seeks to amend only section 162 of the Criminal Procedure Code. The original proposal was that section 162 of the principal Act be deleted. In the notes on the clauses by the Select Committee, it is stated:—

> "The Committee feel that the deletion of this section will do away with protection enjoyed at present by the accused against the prejudicial use of untruthful statements of witnesses recorded by over-zealous police officers. The effect of such an omission would be that the statements recorded by the police under sub-section (3) of section 161 may be used by the prosecution both *for the purpose of corroboration as well as of contradiction*. The Committee consider that the statements recorded by the police should not be used by the prosecution for the purpose of corroboration. They may be used for contradiction only and this right should be available both to the accused and the prosecution. As the prosecution is not entitled to cross-examine its own witnesses without the permission of the Court, it has been specifically provided that the statements recorded by the police under sub-section (3) of section 161 can be used by the prosecution for the purpose of contradiction, with the permission of the Court."

This statement fully sets out the object of the Select Committee in inserting by clause 22, section 162 of the principal Act in the proposed amended form.

The marginal note to section 162 gives clear indication both as to the subject as also the objective of section 162. It is worded as under:—

> "Statements to police not to be signed—use of such statements in evidence."

Now let us turn to what section 161 of the Principal Act provides. The subject indicated by the marginal note is "examination of witnesses by police". The section lays down various details such as which officer can examine the witnesses, the subject of examination, the obligation on the part of the person to be examined to answer questions, the option to the police officer to reduce to writing any statement made to him in the course of an examination etc., etc. He is also required to keep a separate record of the statement of each person who is examined.

Both these sections 161 and 162 appear in part V of the Code of Criminal Procedure entitled 'Information to the Police and their powers to investigate'. They both relate to the common subject of the powers of the police in the course of investigation. But the real question is as to whether the subject matter of each section, 161 and 162, is substantially the same and is divided into two different sections only for the purpose of convenience of expression or whether the sections relate to entirely different points, though, interconnected in the enactment of provisions relating to the subject of "information to the police and their powers to investigate". If I may use an analogy from science, the question is whether sections 161 and 162 are a mere physical mixture or chemical compound.

I am clear that they do not form a chemical compound so as to render the subject-matter one homogeneous whole and points and objects of the provisions inseparable from one another. The subject dealt with by section 161 is entirely different from the subject in section 162. While section 161 deals with the examination of witnesses, its manner and method etc. that may be followed therein by the police, section 162 refers to totally different matter, namely, the use that can be made of statements so recorded. Section 162 deals with the matter of a stage subsequent to recording of statements and it is difficult to understand why section 162 cannot be amended without necessarily amending section 161 also.

The main argument urged for establishing "close or inter or vital connection" between the two sections is based on considerations other than the intrinsic homogenity of the subject

[Mr. Speaker]

matter of the two sections. The argument is based on certain assumptions about the methods of the police in the matter of investigation and a fear about the statements recorded being used to the disadvantage of the accused. These arguments may be proper or legitimate to reject the proposed amendment to section 162 and allow the law to stand as it is at present. It is, however, a thing far different from saying that there is a homogeneity of matter in sections 161 and 162 so far as their provisions go. The amendments are tabled on the assumption that the House will accept the amendment of Section 162 by clause 22. The assumption is very correct but the admissibility of the present amendments cannot be determined by consideration of desirable amendments to other section consequent upon the amendment of Section 162. That would amount to decide upon admissibility on consideration as to what one considers proper in respect of the merits in any scheme of investigation by the police. I fail to see why it should not be competent for the legislature to amend section 162 and state what use can be made of the statements recorded under section 161. May be, that the use now permitted by the amendment to section 161 is disadvantageous to the accused, but that is a different matter to deal with the question of the use of statements from the question of the manner and method of recording of statements. The use of a statement is not the same as recording it.

The object of section 162 seeks to provide a test for the value of the testimony of a witness. Till now, the accused only has the right to contradict the prosecution witnesses for shaking the value of his evidence. The amendment now seeks to give the prosecution also the right to contradict statement of its witnesses with the safeguard that such contradiction can be permitted only with the permission of the Court. That the amendment of section 162 places the accused and the prosecution practically in the same position with reference to the statements recorded by the police under section 161 with certain safeguards is no ground for saying that the matter dealt with in section 162 is, in substance, identical with the matter in section 161.

To my mind, therefore, it is clear that amendments Nos. 369,53 and 287 are clearly beyond the scope of the present Bill and, therefore, out of order.

The case about amendment No. 372 is still more clear. It deals with the question of diaries to be maintained by the police in respect of proceedings in investigation. It provides as to how the police records have to be kept and their evidentiary value. Amendment No. 372 seeks to lay down how the dairy book is to be prepared, what is to be written etc. These sections 161, 162 and 172 deal with separate and independent matters. Amendment No. 372 is, therefore, also beyond the scope of the Bill.

Amendment No. 380 by Shri Bogawat suggesting deletion of section 197A of the principal Act is very clearly outside the scope of the Bill. In the scheme of the Code, it forms part of an entirely different subject. Section 197A deals with certain restrictions in cases of prosecution of rulers of former Indian States. Obviously, it could not be contended that that section has anything to do with section 162 except the fact that it has a place in the Criminal Procedure Code as a whole.

Even though these amendments are beyond the scope of the amending Bill and, therefore, out of order, I may point out that the amendment No. 537 of Shri Pataskar seeking to amend clause 22, *i.e.*, section 162 may perhaps be somewhat helpful in the objective which movers of amendments Nos. 369, 53, 287 and 372 have in view.

I forgot to mention one thing. I had stated that a short discussion would be permitted in respect of the amendment of Shri Pataskar and amendments to that amendment. That may be taken up now or may be taken up later, as suits the convenience of the House. But in view of the absence of one or two Members who have tabled amendments to that amendment, it may be taken up later on.

### Clauses 61 to 65

**Mr. Speaker:** The House will now resume further discussion on clauses 61 to 65 of the Code of Criminal Procedure (Amendment) Bill, 1954. Of the 2 hour allotted to this group, 46 minutes have been availed of yesterday and 1 hour and 14 minutes now remain. This would mean that this group of clauses will be disposed of by about 1.50 p.m.

Thereafter, the House will take up consideration of the next group which consists of clauses 66 to 81 for which 2 hours have been allotted. The discussion on these clauses will go on up to 2.30 p.m. when the Private Members' Business will be taken up by the House.

Which is the amendment which the hon. Member wanted me to read?

**Shri Venkataraman:** They relate to clause 61. I just want the final amendments. We may take them up just at the time of the voting. We will get them from the office.

Sir, clauses 61 to 65 relate to an important question of the examination of the accused. The original section 342 consists of two parts: first, it deals the examination of the accused at any stage of the trial, and secondly, it deals with the examination of the accused after the evidence for the prosecution is over, and before he is called upon to enter on his defence.

[MR. DEPUTY-SPEAKER *in the Chair.*]

In both these parts, the right of the examination of the accused by the Magistrate is limited only for the purpose of enabling the accused to explain any circumstances appearing in evidence against him. That is to say, an examination of a general nature about the case of the accused is not permitted as the Code now stands.

In the amendment introduced by the Joint Committee in the examination of the accused at any stage of the inquiry or trial, that is, before the evidence for the prosecution is over and before the second stage, namely, when the accused is called upon to 'explain' the circumstances appearing against him, the Court is now permitted to examine the accused as it considers necessary. This enlarges the scope of the inquiry to an extent which will be prejudicial to the accused. The framers of the Joint Committee report seem to have been of the view that such examination may help to clear up any circumstances appearing against the accused. But once the Court is given the Power to put any question without any restriction, then it really amounts to cross-examination of the accused which is against any known principle of criminal jurisprudence, unless the accused submits himself to cross-examination under a subsequent clause. Therefore, I have ventured to suggest on the lines that Shri Tek Chand has also suggested. that this clause be deleted and the position as it is in the original Code be restored. That is to say, if any question is put by the Court either at the first stage, namely, where the examination of the accused may be made or at the second stage after the evidence for the prosecution is over, in all cases, such examination shall be only for the purpose of enabling the accused to explain the circumstances appearing against him and not for the purpose of eliciting any information either in his favour or against him. Therefore, I would strongly urge that this amendment, No. 622, and allied amendments of that character may be accepted by the hon. Minister. (*Interruption*).

Sir, there is yet another aspect of mittee does not seem to be very much in agreement with me; therefore, I wanted to know his objections.

Sir, there is yet another aspect of the case, namely, under article 20(3)

[Shri Venkataraman]

of our Constitution, no person accused of any offence shall be compelled to be a witness against himself. Now, if a Court puts any questions to the accused person, then he will be obliged to answer those questions or not answer them. If he does not answer, provision 342(2) will be attracted, which says:

> "....; but the Court and the jury (if any) may draw such inference from such refusal or answers as it thinks just."

So, it would not be right for anybody to say, the accused person may refuse to answer and still he would not be liable. If the accused person is examined without the limitation imposed by the Code and he refuses to answer, then the Court and the jury, (if any,) may draw such inference as they like from such refusal. That is to say, it would go against him. I do not think that it is the intention of the framers of this Bill to make the position of the accused far worse than it is now. It is really to expedite trial as best as possible without in any way hampering the defence. My submission, therefore, is that this clause should be dropped in view of the fact that it is possible to interpret it as offending article 20(3) of the Constitution and also because it would impose a greater burden and hardship on the accused by virtue of the inference that is likely, to be drawn under section 342(2) of the present Code.

Then I come to clause 62, Sir, to us who have practised in criminal Courts here, this is a great innovation. The accused being asked to tender himself as a witness is a new experience and we do not know how it would work in this country. The bulk of opinion received in respect of this clause from various State Governments seems to show that in view of the illiterate nature of the accused it may not be quite proper for him to be given the chance to give evidence. I feel that the counsel in each case would decide whether or not he should offer the accused as a witness. The counsel in each case will see if there is anything which the accused has to explain and which no one else could. If there is any evidence appearing against the accused which could be explained away by other evidence, possibly the counsel will not advise the accused to appear and give evidence in his favour. But, when, on the other hand, he thinks that it is a matter which is within the personal knowledge and it would help the case if the accused offers himself as a witness, then this provision will enable the accused to give such evidence. This being an optional power given to the accused, it would certainly be useful to the accused to clarify such issues like intention and other things in offences involving intention and other matters by offering evidence in his own behalf.

Sir, I once had the opportunity to go to Malaya and defend the I.N.A. men in Singapore. You know that in Malaya the procedure followed is the British procedure and the accused is allowed to offer himself as a witness. The counsels who went from India—men like Shri K. F. Nariman and others—felt that this should not be exercised in the case of persons who were charged with offence of collaboration. We had a long conference among the members who went to defend the I.N.A. personnel and with the local lawyers. We debated this question as to whether we should allow the accused person to offer himself as a witness. While lawyers in Malaya had no difficulty or doubt in coming to the conclusion that it was to the advantage of the accused to offer himself as a witness in his own behalf, we were very nervous because we were not accustomed to it. Actually, when the case came up we decided to allow the accused to appear as witness in his own behalf and I must say that we were fairly successful in the experiment. I, therefore, think that the time has come in this country also to make this experiment of making the accused a competent witness in his own behalf, and I very warmly welcome this provision.

In sub-clause (b) of this clause, it is provided:

> "his failure to give evidence shall not be adverted to or made the subject of any comment by any of the parties or the Court...."

Now, the hon. Minister, Shri Datar has given an amendment to delete the words "adverted to or". I think it is a very sound and proper one. In fact, it must be welcomed because even when the Judge charges the jury he will have to say, the mere fact that the accused has not offered himself as a witness shall not go against him and that means he adverts to the fact that the accused has not offered himself as a witness in his own behalf. Therefore, if the words are retained there, the Judge will not be able to refer to this question even for the purpose of warning that it should not be taken into account Therefore, those words are really harmful and should be deleted and I welcome the amendment moved by Shri Datar.

I now come to the clauses relating to compoundable offences. Here, I am very sorry that the Government should have included a number of offences which are of a serious character as compoundable offences. For instance, theft by a clerk or a servant of the property of his master has been included. These are all offences not only against the persons concerned, but against society also. A person may commit theft twenty times and if on the twentyfirst time he is caught, then he can straightaway go, pay the money or double the money and compound the offence. This is a thing which will offend the social conscience. So also, take the case of criminal breach of trust. Here the offence of criminal breach of trust is very often committed by people in high positions—managing directors of companies for instance. Now, what would happen if the Managing Director of a company commits a breach of trust in respect of property entrusted to him? If he is not caught he will go scotfree. If he is caught, then, he being the major shareholder and having or controlling interest in the company, he can persuade the company to go and compound the offence. This is hardly fair and I think this ought not to have been included at all. But, I have not been able to persuade the Government to see their way to drop all these offences—379, 381, 406, 407 and 408—particularly theft. Therefore, I have proposed an amendment which I hope would meet the objections of the Minister and also command the confidence of the Members here. My amendments are numbers 617, 618, 619, 620 and 621. They seek to provide that if the value of the property stolen is less than or does not exceed Rs. 1,000, then, in that case it may be compounded. If the value is more than Rs. 1,000, then it should not be compounded.

**Shri Gadgil** (Poona Central): Like the suit valuation, the value of the property can be decided.

**Shri Venkataraman:** My object is this. Only small trifles should be compounded. If the value is less than Rs. 50 then it is a trifle and it may be compounded and there is no great harm done to society. If the value is very great, then it is not right that the accused—very often he is not caught in such offences—when he is caught should have the facility of escaping punishment.

**Pandit Thakur Das Bhargava** (Gurgaon): He will be fully encouraged for the future.

**Shri Venkataraman:** Yes; he will be encouraged for the future because he can always go with the idea that he can get the offence compounded.

**Mr. Deputy-Speaker:** He can pay double the amount and go on committing thefts.

**Shri Venkataraman:** I think, Sir, that is a very valid objection.

**Mr. Deputy-Speaker:** He can go on acquiring here and there and then ultimately pay it off.

**The Deputy Minister of Home Affairs (Shri Datar):** It is not so easy to pay the amounts.

**Shri Gadgil:** It is with the permission of the Court and the Court will certainly consider the nature of the offence.

**Mr. Deputy-Speaker:** Offences are offences unless he is a poor man and on account of starvation, just to have something he stretched his hands. In other cases offences are offences. Fire is a fire whether big or small.

**Shri Venkataraman:** My hon. friend, Shri Gadgil, said that it is only with the permission of the Court that this can be compounded. We know the pressure of time in Courts. When a Court finds that there are about 15 or 20 witnesses on either side and that the case is likely to drag on for a long time, and if he finds an easy solution by compounding it and sending to his superiors that so many cases have been disposed of by him, say, within a quarter, the tendency would be to compound it.

**Shri Gadgil:** I take a better view of the magistracy.

**Shri Venkataraman:** I do not say that in every case this will occur, but I say that they will be tempted to do so, and it is quite possible that they will do sometimes. You should not place such a temptation even before the judiciary. My submission is that all the cases referred to in my amendments Nos. 617, 618, 619, 620 and 621, dealing with theft, criminal breach of trust and allied offences where the value of the property exceeds Rs. 1,000, should not be allowed to be compounded. There is something to be said in favour of trifles or small cases being allowed to be a compounded. Only day before yesterday in the papers we read that for committing a theft of Rs. 1-4-0, a person was convicted for one month. Such cases may be allowed to be compounded without any serious damage to public morals, but in other cases, I think it will be totally wrong to allow it. My submission that these amendments should be accepted by the House.

Lastly, I come to clause 65, which deals with a very important question, namely, the question of *de novo* trials, and the right is sought to be curtailed but without prejudice to the accused. The right is there that if a Magistrate is of opinion that further cross-examination is necessary, he will call him and it is open to the accused or his counsel to satisfy the Court that some material witnesses, important witnesses or people who speak to the occurrence or people on whose evidence a conviction is likely to be based, may be recalled and re-examined. Therefore, this provision is also welcome as it will expedite the trial.

**Shri Datar:** May I point out that so far as clause 61 is concerned, my hon. friend just now stated that his object was to restore the original section 342, but he will find that there is a sub-clause (4) in clause 61 "No oath shall be administered to the accused when he is examined under sub-section (1)". You will find that in section 342, the only words that occur are "No oath shall be administered to the accused" under any circumstances". In addition to section 342, we propose to have a section 342A, under which an oath will have to be administered when the accused is prepared to go into the witness box after a permission in writing.

**Shri N. C. Chatterjee** (Hooghly): We have no objection to clause (b) being there. His objection is to sub-clause (a).

**Shri Datar:** I am pointing out a technical difficulty. In case the hon. Member's amendment is accepted and the original section is to be restored, you will have to omit the words "when he is examined under sub-section (1)".

**Shri Venkataraman:** My amendment is only to delete the lines 12 to 21, that is to say, the first proviso. The other clause will stand.

**Shri Gadgil:** Then (b) becomes meaningless.

**Shri Venkataraman:** I do not know if I have made myself clear. The point is that sub-section (a) is dropped and sub-section (b) will remain as it is.

**Shri Datar:** You agree to the retention of lines 24 and 25 in clause 61?

**Shri Venkataraman:** They should remain.

**Shri N. C. Chatterjee:** I am strongly supporting my hon. friend, Shri Venkataraman's suggestion. It is not for the purpose of scoring any debating point, but it is such a vital point and if it is amended in the way it is sought to be done, it will be a great hardship on the defence and it may even work to the detriment of the accused in many cases. If you look at section 342, the present section is:

> "For the purpose of enabling the accused to explain any circumstances appearing in the evidence against him, the Court may, at any stage of any enquiry or trial without previously warning the accused, put such questions to him as the Court considers necessary, and shall, **for the purpose aforesaid, question** him generally on the case after the **witnesses for the prosecution have** been examined......"

This section empowers the Court to examine the accused after the evidence for the prosecution has been taken. The object of empowering the Court to examine the accused is to give him an opportunity of explaining any circumstances which may tend to incriminate him and thus to enable the Court, in case where the accused is undefended, to examine the witnesses in his interest. The object of questioning an accused person by the Court is to give him an opportunity of explaining the circumstances that appear against him in the evidence.

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The amendment proposed is to delete the words "for the purpose of enabling the accused to explain any circumstances appearing in the evidence against him". That would mean that the Court may at any stage of an enquiry or trial, without warning the accused, put any questions to him as the Court considers necessary. The beneficent restriction is that the power of interrogation is limited to the purpose of putting questions to explain any of the circumstances from which inference against him will be made. That is gone. Only it has been brought down. What I am pointing out is this and I am quoting from a judgment.

> "This section makes a departure from the English law, under which it is not permissible for the Court to ask the accused any question except questions incidental to the conduct of the trial, *e.g.*, whether the accused wishes to cross-examine a witness or to give evidence, etc. It is a principle of English law that the whole burden of proving the offence is on the prosecution; the accused can stand by and do nothing; and he is protected from all judicial questioning at the trial. Indian law, however, allows the Court to put questions to the accused, and the answers thereto may be "taken into consideration" whatever that phrase may mean. It was for this reason that Sir, James Fitzjames Stephen—he drafted the Criminal Procedure Code—characterised this section as embarrassing, illogical and hypothetical.

Even the draftsman of the Code pointed out that this is a departure, but he took the precaution to put in the beneficent restriction that in no case shall the power of interrogation be used for any purpose other than for the purpose of clearing the doubt. As you know, all the High Courts in India have held that the whole object of examination is to enable the judge to ascertain from him his explanation regarding some facts stated by the

[Shri N. C. Chatterjee.]

witnesses. But now that beneficial restriction is removed. Then you give a licence or a charter to the Court to put questions at any stage. Kindly see the deleterious effect of it. At any stage of the trial or enquiry, without previously warning the accused, put any question which the Court considers necessary. I am entering my emphatic caveat against this kind of radical departure. This is too much of a departure from any known principle on civilised jurisprudence. The examination of the accused must be confined to that purpose and for that purpose alone, the purpose of enabling the accused to explain any circumstances appearing in the evidence against him. You know the Supreme Court and the other High Courts have set aside many trials because they overstepped the limit of cross-examination under section 342. You know we have deliberately incorporated in our Constitution—I think it is article 2—where it is said that a man should not be subjected to any self-incriminatory evidence. There are three principles incorporated in American jurisprudence: one, there must be *audi alteram partem*, that is, he must be given full opportunity of being heard; secondly, there should be protection against double jeopardy, and thirdly, constitutional safeguards against self-incrimination. Consciously and deliberately the framers of the Constitution have incorporated the 5nglish principle and the American principle that so long as the man is under trial he shall not be asked any question so as to incriminate him. If you remove those words, "for the purpose of enabling the accused to explain any circumstances appearing in the evidence against him," then, you can condemn him out of his own mouth by interrogation or by examination or by cross-examination, especially when a very large number of our countrymen are illiterate and cannot defend themselves properly and cannot possibly have the resources of having very capable legal assistance. It would be very dangerous, and all the Magistrates are not equipped properly. Therefore I am submitting for the consideration of the hon. Minister that this sort of provision should not be inserted.

**Mr. Deputy-Speaker:** What is the article?

**Shri Venkataraman:** Article 20(3).

**Mr. Deputy-Speaker:** "No person accused, because that would be disclosled to be a witness against himself."

**Shri N. C. Chatterjee:** Yes. You know the Supreme Court has also held in a recent case that you cannot issue a search warrant for the purpose of getting hold of all the books of the accused, because that would be disclosing his evidence. They have interpreted it in a liberal manner.

**Mr. Deputy-Speaker:** Asking questions at any stage and drawing an adverse inference.

**Pandit Thakur Das Bhargava:** That becomes evidence subsequently.

**Shri N. C. Chatterjee:** Not only that. Removing the restriction in the first part of section 342 "for the purpose of enabling the accused to explain any circumstances appearing in the evidence against him," gives an absolute, unrestricted licence or freedom to the Magistracy. Naturally, the hon. Minister may say that article 20(3) is there, but you know, in practical effect, what will happen? When you remove it, the Magistrates will say that "my interrogation is not limited to that purpose." The door is widened and therefore I am appealing to my hon. friend, Dr. Katju, not to insist on this. I am not objecting to clause (b): "No oath shall be administered to the accused when he is examined under sub-section (1)." That should remain.

I had already indicated my concurrence with this point. I am supporting that an accused person should be made a competent witness. I know the danger of leaping in the dark, having regard to the fact that our people, a very large of our people, are illiterate and ill-equipped, and it would be very difficult in some cases. But I also know from my experience that there are many cases where if the accused had the chance of going into the witness-box, he could exonerate himself clearly, and he could give a coherent account of the entire incident and dispel all atmosphere of suspicion and prejudice against him. I think what the hon. Minister is introducing in section 342A should not be turned down; that should be accepted by the House. Subject to certain safeguards it would be desirable that the accused should be made a competent witness. There is no objection to that. I want to point out that in clause 63, there has been a provision made that there should be a trial, *de die in diem*, at page 18. That is very desirable and that will eliminate procrastination and regrettable delays which you know are sometimes scandalous. The last part of clause 63(a) says:

> "Unless the Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded."

I do not know how far it will work properly and I wonder whether a suitable amendment is not necessary. Some hon. Members have tabled some amendments and they are worth consideration. It may be that the prosecution wants to examine one witness only on one day, have his statement recorded and have his evidence finished, and the next day they may produce another, and so on. There should be some steps taken whereby the prosecution should be compelled to bring their witnesses and produce all of them *de die in diem* and finish them *seriatim* and not be allowed to practise the system of having one witness a day and go on prolonging the trial thereby. With this submission, I hope that the Government will be pleased to accept our suggestion with regard to the retenion of section 342 in its original form of course, subject to that addition which was mentioned. There should be nothing which will imperil the accused by judicial interrogation without any suitable safeguard and restriction.

**Shri Tek Chand** (Ambala-Simla): I feel that we have succeeded so far in a magnificent manner in making a mess of the Code of Criminal Procedure.

**Shri Venkataraman:** For which you are also responsible.

**Shri Tek Chand:** It has been maimed, it has been mutilated, it has been made a mincemeat of. The pride of place has been taken by the new amendment to section 342. It appears that now two new favourites have entered the arena, and have completely supplanted the previous favourites. The new favourites are 'Speed' and 'Administrative convenience' and the favourites who have been supplanted are 'Justice' and 'Fairplay'. Justice and fairplay have become fugitives before the scourge of speed and administrative convenience.

I feel, Sir, that when you examine the provisions which are likely to be abused the most, section 342, as amended, is bound to have the pride of place. What is going to happen? The English jurists have always been averse to an examination of the accused even by the Court, because, in the language of Professor Kenny, such a course gives wide scope to 'judicial cruelty' and examples have been cited of the immemorable Lord Jeffreys, Justice Page, Justice Scroggs and others who adorned the Star Chamber and disgraced the criminal procedure. The Magistrate has been given an absolutely free hand to put any question at any time regardless of the object of doing so. Therefore, the Magistrates have been harnessed to become another—as if it were—Judge Advocate—General, dispensing justice and at the same time being a great adherent and colleague and the agent of prosecution. What is he going to do? These are the fears expressed not by us on the floor of this House. These

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are the fears which have been expressed by the famous jurists the world over. The accused is now going to be badgered and bullied and the examination of the accused will be inquisitorial, the object being to entrap him either by browbeating him or cajoling him or making use of his nerves which are already shattered, and which must have gone to pieces the moment he stands in the dock to answer any question at any stage. I submit, as pointed out by Mr. Chatterjee a short while ago, that section 342 as it originally stood was a significant departure from the law as it was in England where it was the duty of the Court to use certain statutory cautionary words in every case while putting questions to the accused. The exact words are "Do you wish to say anything in answer to the charge? You are not obliged to say anything unless you desire to do so but whatever you say will be taken down in writing and may be given in evidence at your trial." These are the statutory words of caution that the Magistrate had to say.

Our old section 342 made a significant departure and the new section 342 takes away the only protection which the accused had. It was that he should open his lips—the object being to protect the accused—in order to enable him to explain the matters arrayed against him by the prosecution and their witnesses. You have not put any curb on the Magistrate. You have not told the Magistrate: "Do not put leading questions or misleading questions or harassing questions or questions of the nature of cross-examination." I wish at this precise moment the hon. Home Minister were here in the House because I am most anxious to present to him the opinions of those who sat at his feet and imbibed their first lessons in criminal jurisprudence. The Advocates' Association of the High Court of Allahabad, of which he was an honoured Member,—they are opposed to the section 342 because they feel that it is likely to be abused and because it is greatly prejudicial to the interests of the accused. They again say that such provision may mean cross-examination of the accused for filling the gaps in the prosecution evidence or extracting of confessions under disguise. These are the persons who are competent to express an opinion and their opinion is entitled to great weight. But not a grain of weight has been given to that opinion. This opinion is again endorsed by the Bombay Bar Association and by the Calcutta Bar Association. According to the latter, the prosecution must not be allowed any opportunity for taking the accused unawares and extracting from his lips answers which may be prejudicial and affect the accused. Then again the danger is that the object of these questions will be to entrap him into making admissions with a view to fill gaps in the prosecution cases, with a view to get some confessions recorded and with a view to see that this man flabbergasted and dumbfounded as he is likely to be, might make some contradictory statements so that the Magistrate may have a handle to convict him, willy nilly.

Apart from that, when I turn to the new section 342A whereby the accused has been made a competent, but not a compellable witness, I feel that the retention of the amendment to section 342 becomes totally unnecessary. If he appears as a witness, do what you like; tear him to shreds, tie him down into knots as a result of the cross-examination by the Public Prosecutor. But, if he does not appear as a witness, and if his statement is not to be recorded, then, why are you going to entrap him and enmesh him by putting questions regardless of their nature at any time and anywhere and without giving any warning?

Regarding 342A, I should say it is an innovation. In 1898 when it was introduced in England there was a very sharp opposition. Some jurists were of the opinion that the innocent accused may have some advantage and the accused who will not be able to establish his innocence may be entrapped. That was the view of some. The others held quite a contrary view. I feel that this innovation is too premature having regard to the literacy in this country to resort to that. But in so far as he merely becomes a competent witness and not a compellable witness there is some relief. But, I wish to say one thing. The danger is that in spite of your statutory warning that his admission to give evidence is not going to be adverted to or to give rise to any presumptions, it may not be so. My fears are—and they are shared by a host of others who were competent to give their opinion—that there still remains a lurking suspicion against the accused because he did not step into the witness box. This is the feeling expressed by a number of persons who were competent to express an opinion. They felt that really guilty persons would not go to the witness box and risk cross-examination while innocent persons who may do so in the hope of clearing doubts may, on account of nervousness, land themselves in a quagmire of inconsistencies which may eventually lead to failure of justice. I feel that the time is not ripe when 342A should be introduced in our country.

I shall now come to the next clause, No. 64.

**Mr. Deputy-Speaker:** How much time does the Minister want?

**Shri Datar:** About fifteen minutes.

**Mr. Deputy-Speaker:** This debate ought to close at 1-50.

**Shri Datar:** But the voting will have to be after 2-30.

**Pandit Thakur Das Bhargava:** These are very important provisions. We have saved about three hours already.

**Mr. Deputy-Speaker:** What is the meaning of asking me? The Speaker was here; then, the hon. Member was sitting quiet.

**Pandit Thakur Das Bhargava:** You are in the place of the Speaker now and you have got the same powers. Since three hours have been saved, I beg you to allow some more time.

**Mr. Deputy-Speaker:** Let me make the position clear. When the Speaker announced a particular course of action, whoever might be the occupant of the Chair, he should follow it. I cannot go on changing it. Hon. Members were all sitting quiet then. He said that the first stage must be over at 1-50 and then the next stage must be taken up and that may be carried on till 2-30 when the non-official business will be taken up. Hon. Members must have noticed it then.

**Pandit Thakur Das Bhargava:** If the Speaker were here, we would have made the same request. As the situation develops, these adjustments can be made.

**Mr. Deputy-Speaker:** I cannot do so; I feel it very embarrassing. When the Speaker is here, hon. Members keep quiet.

**Pandit Thakur Das Bhargava:** We do not keep quiet; we make no difference between you and the Speaker. The same situation did not develop then and we did not know how much time will be taken by the speakers.

**Shri Datar:** I may point out to the hon. Member that Government are going to accept the amendment No. 622 moved by my hon. friend Shri Venkataraman. So far as section 342 is concerned, therefore, they need not deal with that. Perhaps, that would shorten discussion.

**Pandit Thakur Das Bhargava:** If this had been stated earlier, all this time would have been saved.

**Shri Tek Chand:** I join in making the same submission and request which has been made by Pandit Thakur Das Bhargava. This is a very important matter on which more time is required. But the matter is left to your sympathetic discretion.

I come to clause 64.

**Mr. Deputy-Speaker:** In view of the statement of the hon. Minister, is it necessary to carry on this?

**Shri Tek Chand:** Clause 64 brings about changes in section 345 regarding composition and compounding. If I found fault with the views of the framers of this Bill on the ground that they were......

**Mr. Deputy-Speaker:** Order, order. I also find that these questions are very important. After all, the original order is that this must conclude by 1-50 and then we carry on the work till the non-official work commences. From 1-50, 2-30 is not more than 40 minutes. Let this go on till 2-30 or a short while before 2-30. I shall then put the clauses and the amendments to the vote of the House. Even if we conclude at 1-50, we must wait until all the others have reassembled at 2-30. At 2-15 or 2-10, I shall call the hon. Minister. He takes 15 minutes. From 2-25, in five minutes we will put all the amendments and clauses to the House and dispose of them.

**Shri Tek Chand:** We have reason to be grateful to you, Sir, for this ruling.

**Mr. Deputy-Speaker:** After all, 20 minutes or 40 minutes, nobody loses.

**Shri Tek Chand:** Regarding section 345 that relates to compounding, I feel that the framers of the Bill have been improperly lax. The principles of English law regarding compounding of offences are that if an offence is one of public concern, the composition of such an offence is improper and is therefore contrary to law. If it is of a private nature between the persons concerned, then, only in certain circumstances and subject to certain safeguards, composition may be permitted. It is a well known principle that you may show mercy, but please do not sell mercy. The result of a large number of offences which have been made compoundable, not with the intervention of the Court, not subject to obtaining of the sanction of the Court, but outside the Court, by merely approaching the complainant, will be, that the accused is being enabled not to obtain mercy but to buy mercy. Now, bargain will be made: very good, I have caused you hurt, here is extra money, compound it.

**Pandit K. C. Sharma** (Meerut Distt.—South): What is wrong with it?

**Shri Tek Chand:** I hear a subdued whisper, "what is wrong with it?"

**Pandit K. C. Sharma:** I say, what is wrong with it?

**Shri Tek Chand:** I propose to classify into four groups the offences which have been the subject matter of clause 64.

**Mr. Deputy-Speaker:** Is there any principle behind this classification?

**Shri Tek Chand:** There is none in the amendment. There should be and there is generally the world over.

**Mr. Deputy-Speaker:** I want to ascertain for my own clarification and for the clarification of the House, what is the principle behind this. Is it felt that hereafter there ought to be no offences relating to property?

**Shri Datar:** Not like that. I would like to explain, if you desire, at this stage.

**Mr. Deputy-Speaker** Otherwise, it is not possible to follow.

**Shri Datar:** So far as clause 64 is concerned, there are certain offences like theft or breach of trust which have, in addition to a public aspect a private aspect also. In certain cases, it ought to be open to the complainant also to get the matter compounded and get whatever he can from the accused. There is always a social aspect. It has to be noted.

**Shri Tek Chand:** And an aspect of blackmailing.

**Shri Datar:** The social aspect is also there. We have also to take into account the hardships that are likely to be caused to the complainant if, for example, he has only to depend upon the discretion of the Court or upon the final decision of the Court.

**Mr. Deputy-Speaker:** Cannot the Court impose a fine and give a portion to the complainant?

**Shri Datar:** Sometimes, the fine is not recovered in time. There is considerable delay and difficulty in getting the amount. For example, if there is some inducement for the complainant to get some money from him in one way or the other, that would go a great way for the purpose of restoring friendly relations between the complainant and the accused. It need not necessarily be considered that in all cases, it would lead to a multiplication of similar offences. That is the reason why Government considered that in certain cases, it ought to be open to the complainant to come to a compromise and compose the offences only with the permission of the Court. You will kindly find that under section 345, they have made a distinction between offences which are compoundable *per se* and which are not compoundable. In between, there is class where offences can be compounded only with the permission of the Court. The permission of the Court and the intervention of the Court in these cases constitutes a sufficient safeguard so far as the social aspects are concerned.

**Pandit Thakur Das Bhargava:** Section 494 has also been included.

**Shri Tek Chand:** If I may continue and if I may still enjoy the close attention of the hon. Deputy Minister, I think it will be worth his while. I have made four groups of the number of offences that are mentioned in this amendment in clause 64. There are no less than 13 offences in which there is an element of chicanery, there is an element of artifice, an element of stratagem and an element of subterfuge, where a sharp practice is being committed on the complainant.

**Mr. Deputy-Speaker:** Whatever may be said, breach of peace and theft seem to be offences which ought not to be included in this list of compoundable offences even with the permission of the Court.

**Shri Datar:** That is one view, a very largely held view also. Government are considering it.

**Mr. Deputy-Speaker:** Even no limits have been suggested by Shri Venkataraman.

**Shri Datar:** As Shri Venkataraman pointed out, for theft of one rupee, a man had to go to Court for one month. That is what he stated just now. There are pettier offences which are more of a private nature. That is the social aspect.

**Mr. Deputy-Speaker:** In the Indian Penal Code, there is section 89 or some similar section where it is stated that these small offences need not be taken notice of. There, this one rupee could not have been taken notice of. I can see the proposal in the case of poor people having regard to their circumstances and imperunious circumstances.

**Shri Datar:** Shri Venkataraman has moved an amendment and Government are inclined to consider the matter sympathetically. The substance of his amendment is, in cases where amount misappropriated exceeds Rs. 1000, the offence should not be compounded at all.

**Pandit Thakur Das Bhargava:** Rs. 1000 is too much.

**Shri Datar:** If they are below that, then they might be compoundable with the permission of the Court. That factor should not be forgotten.

**Mr. Deputy-Speaker:** In our country, who is the man who loses Rs. 1,000 except some Ministers here?

**Shri Tek Chand:** I wish the hon. Deputy Home Minister would grant to me the boon of patience for a few minutes. I am only endeavouring to assist him rather than to obstruct him.

**Shri Datar:** I am replying to him. The hon. Member will note that I

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answered the questions put to me by the Deputy-Speaker. I have not intervened at all.

**Shri Tek Chand:** I do not object to his answering as many questions as possible; he may even make a speech, I do not mind. All that I am very keen about is that he may be pleased to attend to whatever submissions I have to make, and I shall do so within the span of a few minutes.

I say, there are four groups in this. The first group relates to cases where in the commission of an offence, a sharp practice, *i.e.*, stratagem or chicanery is involved; do not make them compoundable at all. The previous Criminal Procedure Code made them non-compoundable. You are reducing it to the other extreme and you say, it is compoundable not even with the consent of the Court. There are not less than thirteen offences in your list, and you will find that they are offences of misappropriation, breach of trust, cheating, fraud, and even counterfeiting.

**Shri Venkataraman:** No, no.

**Shri Tek Chand:** Section 483 deals with counterfeiting a trade or property mark used by another, and that is being made compoundable.

**Shri Altekar** (North Satara): That is already compoundable.

**Shri Tek Chand:** No, it was compoundable with the consent of the Court.

**Shri Altekar:** Even now, it is so.

**Pandit Thakur Das Bhargava:** All these are compoundable with the permission of the Court.

**Shri Datar:** The hon. Member will kindly see that we have only reclassified all the offences that were compoundable with permission. We have not made any changes in respect of all those offences. We have only added some more.

**Shri Tek Chand:** Patience is a virtue rarely attained. I am told that now they are compoundable with the permission of the Court. I would request my hon. friend on the opposite to just juxtapose the original Schedule with this Schedule, and he will find that offences under section 406 relating to criminal breach of trust were not compoundable; offences relating to criminal breach of trust by a carrier, wharfinger, etc. were not compoundable; offences under sections 421, 422, 423, 424 etc. were not compoundable. And you tell me *ad lib.* that they are compoundable with the consent of the Court. Please refer to your Code first, and then by all means interrupt and I will be guided by your interruption.

**Shri Venkataraman:** May I just clarify this point?

**Shri Tek Chand:** I am not yielding.

**Shri Venkataraman:** Then, you go ahead.

**Shri Tek Chand:** There, you will find not less than thirteen offences. If desired by the hon. Deputy Home Minister, I can give the list of offences which have been made compoundable, and the list of offences which have been made non-compoundable. The list of offences which have been made compoundable are offences under sections 403, 406, 407, 408, 417, 418, 419, 420, 421, 422,......

**Mr. Deputy-Speaker:** Section 420 is already there. What is the good of the hon. Member telling us these things?

**Shri Tek Chand:** ...423, 424, 483...

**Mr. Deputy-Speaker:** What is the good of the hon. Member not being prepared to listen, even if I should speak? Section 420 is already there.

**Shri Venkataraman:** Sections 417, 418, etc. are all there.

**Mr. Deputy-Speaker:** Under the existing Act, offences under these sections are compoundable.

**Shri Tek Chand:** They are compoundable with the consent of the Court.

**Mr. Deputy-Speaker:** Even now, it is so.

**Pandit Thakur Das Bhargava:** If my hon friend will excuse me, there are two sub-sections given in section 345. We are only talking of the second sub-section, in which a change has been made in cases in which the consent of the Court is required. In the first sub-section, no change has been made. There are two sub-sections in section 345 of the original Criminal Procedure Code. The change is sought to be made only in the second sub-section and not in the first sub-section.

**Shri Datar:** Will the hon. Member refer to sub-section (2) of section 345?

**Pandit Thakur Das Bhargava:** There, the mistake lies.

**Shri Datar:** There are two divisions made there, section 345 (1) and 345 (s). The hon. Member may kindly see sub-section (1).

**Shri Tek Chand:** I am aware of that. The only principle which I am submitting for his kind consideration is that where there is a sharp practice involved, the offence should not be made compoundable, because the person who has got the means and who has got the finances will go and buy it.

**Mr. Deputy-Speaker:** It is already compoundable with the permission of the Court.

**Shri Tek Chand:** Now, it is compoundable by referring to the complainant.

**Mr. Deputy-Speaker:** No, no, compounding is not with the Court; it is with the permission of the Court, but with the other side. What is the difficulty of the hon. Member? I am really unable to understand. It may be that the hon. Member may be right, and the whole House may be wrong. But he has to convince us. But for the vehemence with which the hon. Member argued, I would not be trying to take up the time of the House to convince him.

Section 345 consists of two portions, and it deals with compounding as a whole. Sub-section (1) refers to cases where the offences can be compounded. Compounding is always with other party; it is not with the Court, for in that case, it will be bribery. Compounding with the Court is bribery. It is always compounding with the permission of the Court, with the other party. In both sub-sections, section 345 deals with compounding only with the other side. In one sub-section, it is without the intervention of the Court ,and in the other sub-section, it is with the consent of the Court. Offences under 417, 418, 420, etc. are compoundable even now with the permission of the Court. What is the argument of the hon. Member? It may be that some other offences may not be so. But then to generalise and say the whole thing, and insist that the hon. Minister is not hearing is not all right. I would not allow much time to this hon. Member.

**Shri Tek Chand :** All that I would submit is that I am endeavouring my best to make my point of view clear. But if it is your view that you will not allow much time...

**Mr. Deputy-Speaker:** It is not that I am not going to allow the hon. Member. Hon. Members here must note what is the new thing that has been added. There is no amendment here in regard to the existing things. They still remain.

**Shri Tek Chand:** The only objection is that certain new offences, such as offences under section 483......

**Mr. Deputy-Speaker:** The hon. Member is objecting to inclusion of offence under section 483. Section 483 is already there. It deals with counterfeiting a trade or property mark used by another. I never understood that

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any hon. Member wanted to say that even the existing offences which are compoundable ought not to be made compoundable. The only point is that other offences which have not hitherto been made compoundable with the permission of the Court, such as, for instance, offence under section 379, have also been introduced.

**Shri R. D. Misra** (Bulandshahr Distt.) On a point of order. We have already passed clause 114 of this Bill, in sub-clause (c) of which, offences under sections 344, 379, 381, 406, 407 etc. have all been made compoundable with the permission of the Court. When the House has taken the decision already that the offences under these sections shall be compoundable with the permission of the Court, can we discuss them now here in relation to section 345? We have already taken a decision on this matter.

**Mr. Deputy-Speaker:** Amendment to clause 114 relates only to entries relating to sections 500, 501 and 502.

**Pandit Thakur Das Bhargava:** only in respect of three sections, this decision has been taken, namely sections 500, 501 and 502. The rest are coming now.

**Mr. Deputy-Speaker:** What is the answer to this point of order?

**Pandit Thakur Das Bhargava:** The answer is quite clear.

**Shri Venkataraman:** The point is that clause 114 related only to sections 500, 501 and 502.

**Shri R. D. Misra:** See sub-clause (c) printed on page 33.

**Shri Venkataraman:** May I complete my sentence? What has been passed by this House is clause 114, Schedule, relating to sections 500, 501 and 502, because that was connected with the offence of defamation dealt with by clause 25. The other sub-clauses, namely sub-clauses (b) and (c) are not intended, and should not be taken, as having been passed. We have classified certain sections together for the purpose of connected discussion, and if we take a decision on one of the sub-clauses, it does not mean that the other sub-clauses in that are deemed to have been passed.

**Shri R. D. Misra:** I had tabled amendments to clause 114, relating to sub-clauses (b), (c) and (d), and all my amendments had been rejected by the House. So, this House has already taken a decision on sub-clause (c) of clause 114. It means that all these offences that come under section 344, 379, etc. coming in sub-clause (c) are made compoundable with the permission of the Court. We cannot have another decision now under section 345.

**Mr. Deputy-Speaker:** I will explain what we have done and how far we have proceeded. We have deliberately grouped together such of those clauses which relate to a common or allied subject matter. We dealt with clauses 97 and 114. I think when we passed clause 114, it is only the schedule portion relating to offences covered by section 225, the offence of defamation. That is all that is disposed of.

If any hon. Member had tabled amendments to the other portions of clause (b) and (c) and they were ruled out, I will treat them as still subsisting. If by inadvertence any amendments have been ruled out, or declared to be voted out by the House, which do not arise from the relevant matter placed before the House hon. Members who have tabled them ought not to suffer. I will allow those amendments as subsisting in the Order Paper.

**Pandit Thakur Das Bhargava:** In clause 114 we have amendment to

Schedule II only. That portion never dealt with section 345.

**Mr. Deputy-Speaker:** In view of that the hon. Member won't be prejudicially affected. He can move those amendments at the appropriate time. These are not barred.

**Shri Tek Chand:** Then, I submit that such offences as maiming, or killing cattles ought not to be made compoundable. Then, offences which invade the liberty of human beings, such as wrongful confinement, ought not to be made compoundable. I also think that offences which involve any indecency towards the female sex ought not to be made compoundable, such as under 509. There will be pressure tactics used; there will be threats, there will be blackmail, all sorts of things will be done and 509 ought not to be made compoundable.

**Mr. Deputy-Speaker:** Section 509 is already compoundable.

**Shri Altekar:** There is an amendment to delete it.

**Shri Tek Chand:** Yesterday evening there was an amendment.

Lastly, I submit regarding *de novo* trial under clause 65, that justice is not properly administered, not suitably administered, when the person who gives the final judgment did not have the opportunity of hearing and seeing the witnesses as they made depositions to their statements. A world of difference is made when a Magistrate sees the deportment of a witness, the way in which he answers questions. Therefore, this matter ought not to be left to the discretion of the new Magistrate even if it means a little delay. It is good to remember that the accused is thoroughly exhausted as a result of a second trial when there is a new Magistrate. Rarely does he ask for it, unless the treatment of the previous Magistrate was objectionable towards him. Under these circumstances it is very proper that when it becomes a matter of *de novo* trial, it should be left to the discretion of the accused rather than to that of the new Magistrate.

Lastly I come to clause 63 regarding hearing from day to day. I thought that one of the canons of interpretation of a statute is that every word carries a meaning.

If you compare clause 63(a) with clause 63(b) you will find there is the insertion of the word "special". In the first case the adjournment will be only allowed to the following day when it is necessary for reasons to be recorded. To this clause I have no objection, so far as the language is concerned. But if you kindly turn to (b) you will find there is a proviso which reads:

> "Provided further that when witnesses are in attendance, no adjournment or postponement shall be granted, without examining them or recording their statements, except for *special* reasons to be recorded in writing."

The Magistrate will be absolutely helpless in trying to interpret the word. What does he understand by "special" reasons to be stated? I feel that the word "special" is redundant; it is inartistic and it will lead to confusion. When a Magistrate is called upon to adjourn a case he says: "No I have got to state my reasons in writing; while in the second case I will have to record my *special* reasons in writing".

**Mr. Deputy-Speaker:** Can't we conceive of cases where even when witnesses are ready, pressure being put on the Court? There are instances when witnesses come from, say, one hundred and fifty miles away, and the Magistrate says that he is in the midst of other work. Are not there cases where the accused wants to gain time?

**Shri Tek Chand:** For the purpose of understanding and interpreting the

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provisions of the section one has to know what are supposed to be the "special" reasons, in contradistinction to 'ordinary' reasons. That being the case, you might say for good reasons, for sound reasons. But you cannot have 'special' reasons in one case and 'ordinary' reasons in the other case.

**Pandit Thakur Das Bhargava:** Sir, to start with I have to thank the Deputy Minister for his being pleased to tell us that he is going to accept the amendment of Shri Venkataraman in relation to section 342. I am very glad, Sir, that it has removed one great hurdle from the path of the accused.

Now when that amendment is accepted, certain results follow. I am bound to bring to the notice of the Deputy Minister to what would happen now. The Courts have held that if a Court puts certain questions to the accused not for the purpose of enabling him to explain certain matters, but outside the scope of this purpose, then those statements of the accused cannot be considered against this. At the same time the Courts have held that if certain questions, important questions, are not put to the accused, certain important pieces of evidence are not put to the accused in his general examination under section 342, they are not to be taken against him as he was not given the chance to explain this. For instance, supposing the accused absconds. The absconding will not be considered by the Court as an adverse circumstance against him if no question regarding absconding is put to the accused.

May I humbly tell the hon. Deputy Minister that in a warrant case, according to your amended provisions there is absolutely no evidence when you start the case from the court. In a commitment case, the thing has been changed and there will be evidence. That is all right. But in a warrant case, to start with, as soon as the accused comes, you begin to examine him. How would you examine him? What has he to explain ? My humble submission is that after this amendment is accepted, we shall, to a certain extent, have to amend the other provisions also, because the examination can only be in respect of certain circumstances appearing in the evidence against him. There is no evidence so far. Therefore, my humble submission is that there also, in that section, we shall have to make certain changes. Moreover clause 31 of the Bill shall have to be repealed in view of this amendment.

**Mr. Deputy-Speaker:** That is why they have made the change, and not confined it only to those matters which appear against him in the evidence. That is why any question can be put now.

**Pandit Thakur Das Bhargava:** But only to explain circumstances appearing in evidence. If there is some evidence on the record there is enough basis for putting some questions to the accused to explain away those circumstances. When there is absolutely no evidence, how can you start with the examination of the accused? I submitted then, when that section was considered, that this was topsy-turvy. Unless there is some evidence whatsoever, no examination can possibly take place. When this is accepted, I would very humbly submit that the examination should not precede evidence; it should succeed evidence. Otherwise, we will not be complying with the law, as it stands today. Section 342 was enacted to enable the accused to examine the prosecution evidence. It was there in the summons cases also, where the only question put, as you were pleased to point out, is 'show cause why you should not be convicted'. That is entirely different This does not come under section 342. Section 342 is very appropriate so far as warrant cases and sessions cases are concerned. Therefore, I would request the hon. Deputy Minister to kindly reconcile the two and place the provisions relating to examination of the accused from this standpoint after some evidence is taken.

I do not agree with the statement of the law in regard to section 342 as has been prepared by Shri Chatterjee and Shri Tek Chand. While it may be that according to the English law, it may not be right, according to the law that has obtained in this country, section 342 is not a bad thing. After all, if we do not put section 342 at all in commitment proceedings, the accused will never be able to get a discharge. It is in the interest of the accused also that after some evidence is taken and he has examined it, he is given a chance to explain away incriminating evidence if he can do so. So when the original provision is restored, I am very happy. As a matter of fact, I think the right thing has been done.

In regard to other matters, I would, with your permission, just have a word to say. In respect of clause 62, I am at one with the previous speakers that we are really taking a leap in the dark. I do not know whether to give my support to it or not. But I would ask one thing from the hon. Deputy Minister. We have already got a provision of this nature in one of the Acts that we passed—the Act relating to bribery etc. There the accused has been given an opportunity to appear in evidence and explain. I would humbly ask the Government about their experience in regard to that section. Has it been useful for the accused or not? If it has been useful, there is a basis for our trying the new experiment, though, I am afraid, in a country like ours, where there is so much illiteracy, if an unwary accused says something out of his own innocence, he may be enmeshed by cross-examination. This is my fear, but at the same time, I am not loath to try the experiment. After all, we have to adopt all these progressive things, and let us try to adopt them.

In regard to clause 63, I have a word to say. In clause 63, as has already been pointed out by Shri Tek Chand, the word 'special' is there. My submission is that this clause is not very clear, though I understand that the purpose is clear. When witnesses come, it is very necessary that they should not be asked to go away. They come from places as far away as 150 or 200 miles. Time is important. At the same time if they come, the accused also can be benefited. My difficulty is that the word 'witness' is used. Suppose in a case 20 witnesses come. It may now happen that the defence witnesses as well as the prosecution witnesses may come. Sir, I thank you on behalf of the House and on behalf of the accused in this country, that you have been pleased to get an amendment made in regard to cross-examination in warrant cases, which we could never have succeeded in getting made. Now, suppose the cross-examination is deferred or there is to be a further examination. The witnesses are cross-examined. The defences may also be called on that very day. There is no harm. There is no rule that they cannot be called; whereas it may happen that as soon as the prosecution evidence is over, the Court calls upon the accused to enter upon his defence and gives him a date, because he has the right of calling witnesses again. What would happen then? So there are certain cases under the Criminal Procedure Code provisions which require adjournment. If on that day, witnesses come, what is the procedure? There should have been a provision in that case. It is not necessary to take down the evidence of all those witnesses. Such witnesses come as are not required even by the prosecution. For instance, in a commitment case they only are obliged to produce those witnesses to the actual commission of the offence. Other witnesses may come. Will they also *perforce* be examined?

**Mr. Deputy-Speaker:** They will be dispensed with.

**Pandit Thakur Das Bhargava:** But they must be examined now. Here the words are that they must be examined.

**Mr. Deputy-Speaker:** Even if the prosecution does not want him?

**Pandit Thakur Das Bhargava:** It says:

> "Provided .... that when witnesses are in attendance, no adjournment or postponement shall be granted, without examining them or recording their statements...."

**Mr. Deputy-Speaker:** The prosecution says, 'I do not want to examine them'.

**Pandit Thakur Das Bhargava:** The prosecution will say: 'I do not want to examine *now*. Ultimately I Will examine them'. But this clause says, you must examine them. I am only coming to their help. It is only the Court that can say 'no'. There must be some meaning in what we say. We should see that words are used in such a way as cannot be misused. I do not say that the Court should insist like this. I am of the same opinion. If they do not want him, what is the use of using these words which are capable of being misused?

**Mr. Deputy-Speaker:** It will come under the 'special' reasons.

**Pandit Thakur Das Bhargava:** It only applies to (b), not to (a).

**Mr. Deputy-Speaker:** Then these are the reasons to be recorded. They are wide enough.

**Pandit Thakur Das Bhargava:** All right. Then I come to clause 64, which is, to my mind, very important. I am very happy that you were pleased to ask whether the section was meant to encourage crimes against property. In regard to theft, it is entirely wrong to suggest that the Courts will be so callous as to give three months for a theft of Re. 1. I do not think so. They are given a warning. There is section 562.

**Mr. Deputy-Speaker:** He can be fined. Is it in the Penal Code that in any theft case, there must be imprisonment, so much so that for a theft of Re. 1, the Magistrate thought fit to award imprisonment for one month? We do not know the circumstances.

**Shri Venkataraman:** It says, imprisonment or fine or both.

**Mr. Deputy-Speaker:** Therefore, it is not obligatory. What is the good of stating that?

**Pandit Thakur Das Bhargava:** The fine can be made over to that person.

**Mr. Deputy-Speaker:** If in a case, he would refuse to compound the case, and then impose one month's imprisonment for theft of even one pie, if the Magistrate chooses to do so, the Criminal Procedure Code cannot stand in the way.

**Shri Venkataraman:** My point is that in such cases it is reasonable to allow compounding of cases of such a minor character.

**Mr. Deputy-Speaker:** But there are two sections already in the Code so that he can be let off with a fine or a warning. There is section 562. The only point urged on the other side is this. It is an offence against the public, not so much against an individual, although it involves the property of an individual. So unless there is a general policy now adopted by the Government or by the Home Minister that hereafter offences regarding property are no offences at all in a particular socialist State or a communist State—I do not know—, there must be some kind of restriction. It is a public offence, more against public justice and public administration and public morality than against any particular individual. That is what is being urged. The hon. Minister will kindly consider it.

**Pandit Thakur Das Bhargava:** Shri Venkataraman's original amendment was in reference to petty cases, as for example, when the accused commits crime out of compulsion when he is starving—say, Rs. 50. But now the Government are not perhaps willing to accept his limit of Rs. 50. So he has increased it to Rs. 1,000 after consultation with Government. I would respectfully urge him to allow me to move an amendment to his amendment making it the very smallest amount which is consistent with the gnawings of your conscience and your new fanged slogan that all property is theft and therefore offences of theft should be discouraged to a certain extent. Make it Rs. 200, Rs. 150, Rs. 250 or Rs. 100, but Rs. 1,000 is too much.

2 P.M.

**Mr. Deputy-Speaker:** I am afraid, the ordnance depots, stores, stationery and all the departmental industries wherever articles are purchased by the Government, they will go on eating away like rats and when they are caught they will pay half the price.

**The Minister of Home Affairs and States (Dr. Katju):** They will have to pay double the price; why half?

**Pandit Thakur Das Bhargava:** There is another aspect. Supposing a clerk in my office has taken away Rs. 50 from my chest, when he comes in the dock I can say: "All right, now pay Rs. 500: otherwise the case will not be compounded." Therefore, he is in favour of black-mailing also. In both ways it is objectionable.

**Dr. Katju:** You were making some amendment to the amendment of Shri Venkataraman. What is that?

**Pandit Thakur Das Bhargava:** I was only submitting that if you cannot do without it, if it is so obligatory, then curtail the amount—say Rs. 100, Rs. 200 or Rs. 250.

**Dr. Katju:** Let us say Rs. 500; will that be sufficient?

**Pandit Thakur Das Bhargava:** Shri Venkataraman said Rs. 50.

**Dr. Katju:** I am prepared to take it on your word. Let it be Rs. 500 or Rs. 300, whatever you like. You said Rs. 250.

**Pandit Thakur Das Bhargava:** I said Rs. 250 or Rs. 200.

**Dr. Katju:** All right; let it be Rs. 250.

**Pandit Thakur Das Bhargava:** Sir, I was submitting in regard to section 429. Shri Tek Chand has very beautifully put his arguments and given four kinds of cases. This section 429 relates to killing or maiming of animals. The actual words are:

> "Mischief by killing or maiming cattle, etc., of any value or any other animal of the value of fifty rupees or upwards."

So far as India is concerned, this is on compassionate grounds. Our entire civilisation depends on this that we are kind to animals. Previously it was not compoundable even with the consent of the Court. Now, the words in section 425 are:—

> "Whoever, with intent to cause, or knowing that he is likely to cause, wrongful loss or damage to the public or to any person causes the destruction of any property .........."

The words are: "Wrongful loss or damage to the public." There is a proviso in this section that if a person wantonly destroys his own property, cattle or any other life, then it is wrongful to the public. Supposing I want to shoot all my horses, even then I cannot do it. That is the present law and I do not see why this section 429 should be included at all. I am very much opposed to the inclusion of this section 429. I am bringing an amendment to section 429 in the House by virtue of another Bill. I do not want that section 429 should be included in this and I beg of the hon. Home Minister ......

**Dr. Katju:** It should not be open to compromise?

**Pandit Thakur Das Bhargava:** Not in this section 429. We have been taught that all life is sacred.

Then, Sir, I am coming to section 494. A few days back we just passed

[Pandit Thakur Das Bhargava]

a law here that bigamy is not right. Now, this compounding is with the husbands or wife of the person so married.

**Shri Datar:** It is already there.

**Pandit Thakur Das Bhargava:** Then what is the use of bringing this new Criminal Procedure Code? The old Criminal Procedure Code was there. Why are you bringing this new one?

**Mr. Deputy-Speaker:** It is already there; this is not something new that they are bringing in.

**Pandit Thakur Das Bhargava:** Sir, when we are bringing this new Criminal Procedure Code, we are doing it for the purpose of judicial reforms.

**Mr. Deputy-Speaker:** Has the hon. Member tabled an amendment that section 494 should go? He knows too well that it is in the old Act. They are only extending the scope and make it applicable to this bigamy with certain class of persons. Even earlier it was made compoundable. It is not a new thing that they have discovered today.

**Dr. Katju:** Bigamy was not open to the police, it was only to the husband.

**Mr. Deputy-Speaker:** They were compounded even without coming to the Court.

**Pandit Thakur Das Bhargava:** We are now enacting the Hindu Marriage Act in which bigamy has been put in that place. Previously it was not. Therefore, whatever we do, we should mean to do it and see that it is enforced.

**Dr. Katju:** I am not saying that it is not to be enforced. Make it cognizable. Supposing the husband or wife do not start a prosecution; what then?

**Pandit Thakur Das Bhargava:** Then put "husbands and wives". There may be so many husbands and wives and they may have to compound with many.

Now, Sir, I will leave it at that. I am coming to clause 65. Here, with your permission, I want to put in strongly that it is entirely wrong to change this law. Previously, if you will kindly see section 350, that when the case went to appeal, the Court was empowered to see whether because of a change of the Magistrate the accused has been prejudiced by the previous evidence being taken into consideration, then the Court on its own, will *suo moto* accept the appeal and send back the case. I know, Sir, in some cases the succeeding Magistrate takes another view of the case.

**Mr. Deputy-Speaker:** Cannot now the appellate Court review and set aside the case, send it back for trial and for recording evidence, because he finds that without evidence he cannot give judgment? What prevents the appellate Court from doing it now?

**Pandit Thakur Das Bhargava:** The point is this. The new Magistrate who succeeds another can call witnesses if he likes. But, so far as the accused is concerned, where you give the discretion to the Court, it will not be exercised by the accused. I am an accused person, I appeared before a Court and I am convinced that the Magistrate is going to let me off because he took a special view of the evidence. He considered the matter in a peculiar way and by his own behaviour convinced me that he was going to let me off. He is not believing the evidence. Now, another Magistrate comes in. He looks into the evidence and believes it. He does not allow me to call those witnesses afresh. Every case is decided by the Magistrate sitting there looking at the evidence and looking at the entire circumstance. When a new man comes in he does not inherit the impressions of the previous Court. He only reads the evidence. Therefore, the previous section 350 was very good and the rights of the accused should not be taken away. I do not believe that when the second man comes he will have the same impression as the previous man unless the witnesses are examined by him afresh. Therefore, I very strongly submit to the hon. Home Minister—who is very kindly sitting here—that he should not take away the rights of the accused. After all he wants justice to be done and this purpose will be defeated if another Magistrate does not take the same view of the case. It is absolutely necessary, as between the accused and the Magistrate, there must be the same relation as existed before.

**Dr. Katju:** And go on prolonging it.

**Pandit Thakur Das Bhargava:** There is no question of prolonging it. Suppose a person is in the dock. I would like that we imagine to ourselves that we were in the dock.

**Dr. Katju:** I have been and you have also been.

**Pandit Thakur Das Bhargava:** Was there a change of Magistrate?

**Mr. Deputy-Speaker:** I do not think hon. Member or we ourselves were ever interested about that.

**Pandit Thakur Das Bhargava:** They never wanted to make any defence.

**Dr. Katju:** My hon. friend knows that justice is done by the appellate Court and appellate Court never sees any witnesses.

**Pandit Thakur Das Bhargava:** He wants the first Court to send a man to jail and then he should file the appeal.

**Dr. Katju:** I am anxious to make it cheap and the wife's bangles should not be sold.

**Mr. Deputy-Speaker:** That the case is quickly disposed of.

**Pandit Thakur Das Bhargava:** My friend does not know that so far as counsels are concerned, they do not charge fresh fee when a new Magistrate comes.

**Dr. Katju:** You are mistaken.

**Pandit Thakur Das Bhargava:** When a new Magistrate comes we do not charge any fee. The accused is only to pay for the whole case. This is to take a wrong view of things and make speed the scapegoat for sacrifice of a salutary principle of law.

I would beg of you to kindly consider this point and see that justice is done to the accused. The hon. Home Minister is in a frolicksome mood and is taking a perverse view without mending that the accused should get justice.

**Shri Datar:** After a very long discussion and after considerable concessions by the Government, there remains only very little, and on those two or three points I would like to point out to the House that Government are anxious that the new provisions that have been introduced ought to be introduced in the interest of the accused also.

One point that was made out was that the accused should not, under any circumstances, go into the witness box at all. The House will kindly find that even in England when the Criminal Procedure Code was introduced a long time ago, about the year 1899, it is true, as pointed out by Shri Tek Chand, there was some opposition to the examination of the accused under certain conceivable circumstances, but it might be noted that about the year 1899 or 1900, this option for the accused to go into the witness box was allowed by the English law and it has been used since then whenever it becomes necessary.

**Shri Tek Chand:** Very infrequently.

**Shri Datar:** Sometimes in the case of offences, certain circumstances arise where it will be only possible to give some explanation and if the accused gives that explanation, then he is entitled to the right of acquittal. Therefore, it should be understood very clearly that this optional right that has been given to the accused is likely to be in the interest of the accused, because there are circumstances which cannot be explained by any person except the accused. I am

[Shri Datar]

glad that but for some small section of opposition from certain quarters, on the whole this new provision 342A has been generally welcomed by all sections of the House. It has also to be noted that he has to apply in writing. In the original Bill what we stated was that it was open to him to go into the witness box if he so desired. The Joint Select Committee thought that in such cases he ought to request the Court in writing so that the accused or his counsel or the defence counsel would have considered the matter in all its bearings and also the conceivable risks, if any, and therefore, this new addition has been made and it safeguards the interests of the accused in all cases.

I have introduced a very small amendment so far as 342A, sub-clause (b) is concerned. The words used were "shall not be adverted to". If these words remain, it would not be open even for the counsel for the defence to refer to his examination or to his failure to go into the witness box. Therefore, I have moved an amendment that these words "shall not be adverted to" should go but all the other words remain. There is a statutory obligation that his failure or omission to go into the witness box will not in any way be the subject of any adverse comment. Therefore, subject to various safeguards, we have introduced a new provision, an innovation, and I might point out to the House that it is likely in the final analysis to be beneficial to the accused.

**Shri Amjad Ali** (Goalpara-Garo Hills): Does he forget that the Judge is a human being?

**Shri Datar:** Before the matter comes up before the Judge, the accused and his counsel will consider all the circumstances before they file an application or request in writing. They will consider all the circumstances, as I stated, including the risks, if any, and then only they will file an application. Therefore, my submission to the hon. House is that whatever safeguards are necessary in the interests of the accused have always been included in this case and, therefore, the provision, though it appears to be an innovation, should be considered as necessary in the interests of the accused.

**Shri Raghubir Sahai** (Etah Distt.—North East *cum* Budan Distt.—East): And the Judge will deal with human beings!

**Shri Datar:** Though he is a human being, he is a Judge also and that must be taken into account. He will also point out specifically to the jurors, if necessary, or he will himself consider that this ought not to be the subject of any adverse comment or inference at all. My submission is that clause 62 is entirely proper.

So far as clause 63 is concerned, it is necessary. Otherwise, what happens is this. Many of the lawyers must have come across cases where the whole matter is treated piecemeal and even one witness is not examined continuously. Sometimes, the examination-in-chief finishes, then the cross-examination goes on, not from day to day, but at different intervals and much of the whole spirit and the objective of the cross-examination is entirely lost then. In the Civil Courts we have got a practice that whenever a case is reached for hearing, it goes on from day to day, unless for special reasons there is a change. The word 'special' has been purposely put in and the object is that ordinarily there ought not to be any adjournment at all, and the evidence ought to be recorded immediately and only the case should be adjourned after all the oral evidence is over.

**Shri Tek Chand:** How do you classify 'ordinary' reasons from 'special' reasons?

**Shri Datar:** It is entirely for the discretion of the Judge and he will see if there are any special reasons, and I am quite confident that our judiciary is in a position to understand what is an 'ordinary' reason and what is a 'special' reason. The word 'special' has been put in because ordinarily we do desire that the case should not be adjourned from time to time in the midst of the trial itself and that is the very object why the word 'special' has been introduced.

Considerable controversy went on so far as clause 64 is concerned. What we have done in the first place is that by clause 64 we have practically rewritten the original section 345. Criticism was addressed against us not only in respect of the innovations that we have made but in respect of the original provisions of the sections which had already been made compoundable with the permission of the Court. In respect of most of these, there was no amendment at all. I will deal with the various offences that have been newly added. Out of about 28 or so, we have added about 12 or 13, and so only a very small number has been added. The offences that have been added may be classified. One is with regard to wrongful confinement. It will be found that in certain cases, a wrongful confinement for a certain period is already compoundable. What we have done is that we have extended the period of wrongful confinement from 3 days to 10 days. So far as this category is concerned, there is no question of principle involved. The principle that has been pointed out by you and also by others is as to whether in respect of offences like cheating, criminal breach of trust or misappropriation, there ought to be or ought not to be an opportunity given for the complainant and the accused to come to terms or come to an agreement or compound the offence under certain circumstances. The first safeguard that we have laid down is that they are not compoundable *ipso facto*. They will be compoundable only with the permission of the Court, and so far as the permission of the Court is concerned, the Court will take into account all the circumstances, including, as you pointed out to the House, the social aspect of the case. There are certain aspects to be considered and I would concede that theft and other offences in this category have also a social aspect, but in addition to the social aspect, we should take into account the personal or the private aspect. Suppose a man has stolen a certain property from me and then if that man is prepared to compound with me, ordinarily except when a very high degree of moral turpitude is involved it ought to be open to both the parties to come to a compromise and settle the matter. Then, you will find that in all such cases, where the compromise is in respect of small amounts or small extents of property, it induces or restores cordial relations between the parties. Therefore, it was considered that in certain cases, we might allow the private interests to be taken into account along with public interests or social interests, and the social side will be fully safeguarded by the Court. If the Court finds that the offence is highly heinous, it will not grant permission at all. This is all so far as theft and other offences like dishonesty, misappropriations of property, criminal breach of trust, etc., are concerned.

There is an amendment moved by Shri Venkataraman who desires to bring down the amount to Rs. 1,000, because such compounding should take place, according to him, only when the amount does not exceed Rs. 1,000.

**Shri Venkataraman:** I may be allowed to move the amendment for reducing it to Rs. 250.

**Shri Datar:** Now that the amount of Rs. 250 has been agreed upon, I am prepared to have the amount reduced to Rs. 250 and the amendments of Shri Venkataraman suitably amended so that only with regard to Rs. 250 or below Rs. 250 there would be any composition of offence even without the permission of the Court. That would show to the House that we are prepared to accept all compromises provided they are of a reasonable nature.

[Shri Datar]

Then, in respect of other offences which we have provided under section 345, it need not be stated at all, because if there has been a fraudulent execution of a deed of transfer, there can be no objection. Transfer, you will find, is a more or less private matter between me and the person who wants to deceive me. In such cases, if the party comes to the conclusion, then there ought to be no objection to permission being sought from the Court for compounding the offences.

Then I come to fraudulent removal of stolen property. There also, as I pointed out, the private aspect is more in prominence than the social aspect.

Lastly, it was stated that the mischief ought not to be made compoundable at all. There are two kinds of mischief, one, when the animal is killed and second, when the animal is maimed. You will find that in villages, even if the slightest maiming is done, or if an animal is killed.

**Pandit Thakur Das Bhargava:** Section 428 is there for animals worth less than Rs. 10.

**Shri Datar:** Killing or maiming an animal of about the value of Rs. 10 or upwards, is of common occurrence. Such cases are of everyday occurrence so far as the villages are concerned. There, it ought to be open to the owner who is more interested in getting compensation or more interested in getting the animal back than in actually allowing the process of law to proceed. Ultimately, it happens that in the case of these small offences, they are reckoned as small offences only though they may not be petty offences, as the hon. Deputy-Speaker has pointed out. These are small offences, and if, in such cases. we agree to a compromise between the parties, then it restores the cordial relations between the neighbours or between the accused and the complainant. Ultimately, we ought to take this aspect into account and in my humble opinion, this aspect also is a social aspect. If, for example, there has been a commission of an offence by a neighbour, and then, if ultimately, as a result of such a provision, they are brought together and the offence is compounded, then, you will find that the cordial relations are restored between the parties not only in their interests but in the interests of society. There were all chances of friction, first arising between the parties, then arising between the individuals. Therefore, even the very object that we have, namely, of advancing the interests of society, would have been achieved in a proper manner if, in suitable cases, the Magistrate or the Court has an authority to allow composition of an offence.

Then, so far as the last clause of the present category is concerned, namely, clause 65, I am happy that it has been generally welcomed. I want to point out that in all such cases there ought to be no *de novo* trials, since the evil of *de novo* trials is very great. I know that in certain cases there were applications for *de novo* trials in the course of the same case four or five times. This will show to the House how there is a temptation for further delays. Therefore, *de novo* trials have been brought to the minimum, and all that is necessary has been fully provided for.

It has been stated that in pauper cases, it should be open tc the succeeding Magistrate to call especially certain types of witnesses in order to understand and in order to find out what the particular witness has stated. That has been done with a view to enable the succeeding Magistrate to mark the demeanour of that particular witness. Therefore, in pauper cases, where, in addition to what has been stated in the course of the deposition, if a Magistrate wants to know to what extent the witness is reliable by marking his demeanour, he could do so, and that has also been provided for. Therefore, I am anxious that section 65 remains as it is, because this provision is one of those provisions which would allow speed not at the cost of justice at all.

**Pandit Thakur Das Bhargava:** If four Magistrates come in succession and record the four or five statements of four or five witnesses, will the last Magistrate who succeeds the four Magistrates be able to decide the whole case rightly?

**Shri Datar:** In such cases, he has the discretion to call as many witnesses as he likes. The provision is already there. Otherwise, if we allow all these sections to remain as they are, I might call them almost bottlenecks so far as criminal prosecutions are concerned. If we allow all these things to remain, then, I am confident that the conditions would go from bad to worse, and we cannot have any speedy justice. I would again point out to my friend, Shri Tek Chand, that Government have always decided to advance the interests of justice and speed will not be at the cost of justice at all.

**Shri Venkataraman:** Three minutes more.

**Shri Datar:** Have I to speak for three minutes more?

**Shri Venkataraman:** Voting will have to take place at 2-30, and it is not yet 2-30, and that is why I suggested it.

**Mr. Deputy-Speaker:** Yes.

**Shri Datar:** Therefore, I am pointing out that the Government have accepted the necessary amendments so far as the clause regarding compounding of the offences is concerned. I may point out in this connection that yesterday, Shri Sadhan Gupta made a reference to section 509, and my hon. friend, Pandit Thakur Das Bhargava, made reference just now to section 494. So far as these offences are concerned, they are not offences newly added to this list by us either in the original Bill or in the Bill as reported by the Select Committee. They have already been there, and they are always compoundable with the permission of the Court. Here also you will kindly note that there is the social aspect which we might conceive of, but ultimately, more prominence, which is the private or the personal aspect, has to be taken into account so far as marriage is concerned. Take, for example, a case of marrying again during the life of the husband or the wife. It has also a social aspect, but in such cases, the Legislature purposely allowed the compounding of such offences with the permission of the Court. So, I see no objection why section 509 which relates to making gestures, intending to insult the modesty of a woman should be interfered with. Such cases are rare and whenever they occur it ought to be open also to the aggrieved party to discuss the matter with the person who has insulted her modesty. In the light of all this, my humble submission is that we should not be criticised for what we have not done. I can understand criticism so far as the innovations that we have introduced are concerned, but I am afraid that in the heat of the moment, certain criticisms were addressed to us on provisions which were already there and which, according to some friends on the other side, were hallowed by time, say about 60, 70 or 80 years.

**Dr. Katju:** About hundred years—not to be touched.

**Mr. Deputy-Speaker:** A rich man may give something to the jury so as to prevent the woman from complaining, and then marry another.

**Shri Datar:** Sometimes it does happen like that. I know of cases where a second marriage is brought about by the first wife.

**Dr. Katju:** I know of applications having been received once a week, or twice a week by the first wife saying:

"Please permit my husband to marry. I am anxious to have children in the family."

**Shri Tek Chand:** From the speech of the Deputy Minister of Home Affairs, I gather that he is accepting my amendment—238.

**Shri Datar:** It is exactly identical with amendment No. 622.

**Mr. Deputy-Speaker:** Let me put the amendments, one after the other, to the vote of the House. I shall put them in the order of numbers. Amendment 238 is the same as amendment 622. I shall start with that.

The question is:

In page 17, *omit* lines 12 to 21.

*The motion was adopted.*

**Mr. Deputy-Speaker:** I shall now put the other amendments to the vote of the House. The question is:

In page 17, *after* line 21, *insert*:

"(aa) in sub-section (2), the words 'or by giving false answers to them' shall be omitted".

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 17,—

(i) line 16, *omit* "and shall"; and (ii) line 18, *after* "him" *insert* "and shall for the purpose aforesaid".

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 17,—

(i) line 16, *after* "necessary" *insert*:

"for the purpose of enabling the accused to explain any circumstances appearing in the evidence against him".

(ii) lines 17 and 18, *for* "of enabling the accused to explain any circumstances appearing in the evidence against him" *substitute* "aforesaid".

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

"That clause 61, as amended, stand part of the Bill."

*The motion was adopted.*

*Clause 61, as amended, was added to the Bill.*

**Mr. Deputy-Speaker:** There is an amendment by Shri Datar to clause 62. I shall put it first.

**Mr. Deputy-Speaker:** The question is:

In page 17, lines 37 and 38, *omit* "adverted to or".

*The motion was adopted.*

**Mr. Deputy-Speaker:** I shall now put the other amendments of clause 62 to the vote of the House.

*The amendments were negatived.*

**Mr. Deputy-Speaker:** The question is:

"That clause 62, as amended, stand part of the Bill".

*The motion was adopted.*

*Clause 62, as amended, was added to the Bill.*

**Mr. Deputy-Speaker:** There are two amendments to clause 63.

The question is:

In page 18, lines 5 to 7, *for* "unless the Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded" *substitute*:

"unless the Court for reasonable cause and for reasons to be recorded, considers it necessary in the interests of justice to adjourn the same beyond the following day."

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 18, *omit* lines 8 to 13.

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

"That clause 63 stand part of the Bill."

*The motion was adopted.*

*Clause 63 was added to the Bill.*

**Mr. Deputy-Speaker** There are five amendments to clause 64—Nos. 617, 618, 619, 620 and 621 and there is a further amendment to all these amendments substituting two hundred and fifty rupees for one thousand rupees. I shall put these amendments in the final form.

The question is:

In page 18, line 38, *after* "Theft" *add* "where the value of property stolen does not exceed two hundred and fifty rupees".

*The motion was adopted.*

**Mr. Deputy-Speaker:** The question is:

In page 18, line 41, *after* "master" *add* "where the value of the property stolen does not exceed two hundred and fifty rupees".

*The motion was adopted.*

**Mr. Deputy-Speaker:** The question is:

In page 19, line 4, *after* "trust" *add* "where the value of the property does not exceed two hundred and fifty rupees".

*The motion was adopted.*

**Mr. Deputy-Speaker:** The question is:

In page 19, lines 9 and 10, *after* "wharfinger, etc." *add* "where the value of the property stolen does not exceed two hundred and fifty rupees".

*The motion was adopted.*

**Mr. Deputy-Speaker:** The question is:

In page 19, line 11, *after* "servant" *add* "where the value of property does not exceed two hundred and fifty rupees".

*The motion was adopted.*

**Mr. Deputy-Speaker:** I shall now put the other amendments of clause 64 to the vote of the House.

*The amendments were negatived.*

**Mr. Deputy-Speaker:** The question is:

"That clause 64, as amended, stand part of the Bill."

*The motion was adopted.*

*Clause 64, as amended, was added to the Bill.*

**Mr. Deputy-Speaker:** With respect to clause 65, there are two amendments—Nos. 614 and 615. The question is:

In page 20, lines 28 and 29, *for* "as he may permit" *substitute* "as may be made".

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

In page 20, *after* line 29, *add*:

> "Provided further that if requested so to do by any accused person, such Magistrate shall re-summon any one or more of such witnesses in accordance with such request and after such further examination, cross-examination and re-examination, if any, as may be made, each such witness shall be discharged."

*The motion was negatived.*

**Mr. Deputy-Speaker:** The question is:

"That clause 65 stand part of the Bill."

*The motion was adopted.*

*Clause 65 was added to the Bill.*

**Shri Venkataraman:** May I suggest that the other amendment, No. 162, may also be voted?

**Shri N. C. Chatterjee:** Not now; that will not be fair. It will stand over in view of the ruling of the hon. Speaker.

## COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS

### SIXTEENTH REPORT

**Shri Altekar** (North Satara): I beg to move:

> "That this House agrees with the Sixteenth Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 1st December, 1954."

It is a very simple matter. In connection with the allotment of time for all these resolutions, the resolution of Shri Thimmaiah regarding the appointment of a Law Commission for revision and modernisation of laws comes first. One minute was taken last time and the time that remains now for that resolution is 2 hours and 39 minutes; 2 hours and 40 minutes have already been allotted and was accepted by the House formally. As regards the other resolution 2 hours and 30 minutes have been allotted and this was also formally accepted by the House; there should be no other opinion on that now.

The only other recommendation that has been made is that because the House rose fifteen minutes earlier last time, that time should be given now.

**The Deputy Minister of Home Affairs (Shri Datar)**: That is, we can rise at 5-15.

**Mr. Deputy-Speaker**: Very well. The question is:

> "That this House agrees with the Sixteenth Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 1st December, 1954."

*The motion was adopted.*

## RESOLUTION RE: APPOINTMENT OF A LAW COMMISSION—*Concld.*

**Mr. Deputy-Speaker**: The House will now resume further discussion of the Resolution regarding appointment of a Law Commission for revision and modernisation of laws moved by Shri Dodda Thimmaiah on the 19th November, 1954.

The Mover spoke for one minute and had not concluded his speech when the House adjourned for the day.

Out of two hours and forty minutes allotted for the discussion of the Resolution, 2 hours and 39 minutes are left for its further discussion.

Since the House has agreed to sit for 15 minutes longer today as recommended by the Committee on Private Members' Bills and Resolutions in their Sixteenth Report, there are 2 hours and 45 minutes available today. After the conclusion of the debate on this Resolution, the next Resolution in the List of Business will be taken up.

Shri Thimmaiah may continue his speech. He may take 15 or 20 minutes.

**Shri Thimmaiah** (Kolar—reserved—Sch. Castes): Though I am student of law, I am not a lawyer. Yet, I try my best to achieve the object of my Resolution. My Resolution seeks to appoint a Law Commission for revision and modernisation of laws. Before I come to examine the present-day law system, I wish to trace very briefly the development and codification of our laws.

In 1833, the Law Commission was appointed under the chairmanship of Lord Macaulay and he submitted a draft penal code in 1837 before he returned to England. This Commission became defunct in 1842 after submitting a scheme of pleading and procedure.

A second Law Commission was appointed in 1853 under the Chairmanship of Sir John Romilly, who drafted the Civil Procedure Code, which was passed in 1859, and drafted the law of Limitation which was also passed in 1859. In 1860, they revised the Indian Penal Code submitted by the Macaulay Commission and that was also passed in 1860. In 1861, they prepared a draft of the Criminal Procedure Code.

[PANDIT THAKUR DAS BHARGAVA *in the Chair.*]

Here is one more point which we have to notice. This Criminal Procedure Code and the Civil Procedure Code mainly followed the English procedure.

In 1861, a third Law Commission was appointed which prepared the draft law of Succession and the drafts relating to the Contract Act, Evidence Act, the Negotiable Instruments Act and the Transfer of Property Act. They also submitted a revised Criminal Procedure Code and Evidence Act. In 1870, this Committee resigned. Until 1879, the work of codification remained with the Secretary of the Law Member, Sir John Stepham, who submitted in 1871 a revised Law of Limitation.

**Shri Amjad Ali** (Goalpara—Garo Hills): On a point of order, when the appointment of a Law Commission is being discussed in the House, should there not be anybody connected with Law or Home Ministries?

**Dr. Ram Subhag Singh** (Shahbad South): There should only be common people here.

**The Deputy Minister of Food and Agriculture (Shri M. V. Krishnappa):** I am here. I have been asked to watch and take notes also.

**Shri Amjad Ali:** I know he is in charge of Food and Agriculture.

**Mr. Chairman:** The hon. Minister has, it seems, been specially asked to deputise.

**Shri M. V. Krishnappa:** Within ten minutes, he will be coming. I am taking notes.

**Shri Amjad Ali:** I do not know if he has been briefed for this purpose.

**Shri Thimmaiah:** In 1872, he submitted a revised Criminal Procedure Code, Evidence Act, and Contract Act, with amendments based on the previous Commission's drafts. In 1877, Lord Hobhouse was responsible for the Specific Relief Act. Since 1875, the Secretary of State for India insisted on the codification in other branches of law also. Then, the Government of India recognising the public apprehension that codification was too fast, took over responsibility for further codification. They appointed three Commissioners to consider certain draft Bills already prepared. Their labours resulted in the passing of the Negotiable Instruments Act, the Private Trusts Act, the Easements Act, the Guardian and Wards Act, the Provincial Insolvency Act in 1908 to supercede the provisions of the Civil Procedure Code. Later on, drafts were also submitted regarding the relations between Master and Servant and also about Torts.

So, we see in the last century, these Commissions functioned and prepared drafts which were later on made into enactments. These Commissions worked more as Drafting Committees than as a body of jurists and men of affairs, who were concerned with the principles underlying these enactments. When the Britishers took over the Government, as the House is aware, they tried to regulate the trial of criminal charges on the lines of the procedure which was long obtaining in England. As a result of the work of these Commissions, today, you have got these various Acts namely the Criminal Procedure Code, the Civil Procedure Code, the Contract Act, Transfer of Property Act, Eastments Act, Specific Relief Act, etc.

These Acts have been in existence in our country for more than half a century. We have seen their working. We have understood their inadequacies and we are in a position to judge their limitations. Now, the circumstances in our country have changed. There is an economic change. There is a social change; there is a change in the idea of administration of justice. There is a change in the idea of enforcement of right. There is a change in the idea of punishment also. You can also take into consideration the fact that the psychology of our people has changed. We have also to note that during the British days, the people obeyed the laws not only because they were of a

[Shri Thimmaiah]

law-abiding nature, but were also afraid of terrorism. It was a police State. Now, it is a welfare State. Therefore, it is high time that we revise our laws to suit the circumstances of our country and the needs of the times.

Now, I shall come to the legal system. The Indian legal system as it exists today is based on many elements which are not consistent altogether. We had in the background the ancient system, the relics of which can be seen in the personal laws of the Hindus. The Muslim conquerors imposed on the people their own legal system. The law in relation to gifts as between muslims is reminiscent of Muslim jurisprudence. The principles of equity which we received from English jurisprudence have shaped our law of alienation. Our law is not simple. It is not clear. Even the ideas in it are not all harmonious. The principles themselves are not well pieced together. The law of any land must be such as could be understood by a layman, if the presumption as to the knowability of a law is to be a reality rather than a mere fiction. The idea of a secular State presupposes a simple uniform system of law divorced from a theological, religious, spiritual background.

**Shri B. S. Murthy** (Eluru): What about psychology?

**Shri Thimmaiah**: Litigation, as we know, in our country is the rich man's luxury. The cost of litigation is highly prohibitive.

**Shri A. M. Thomas** (Ernakulam): It is the lawyer's food.

**Shri Thimmaiah**: Even an ordinary litigation has four stages: the first Court, the appellate Court, the second appellate Court and a third Court, probably the High Court. The most favourable estimation of the duration of a case is six years. It is not uncommon to see in our country cases hanging fire for several years during which time, the original parties, having lived a normal course of life, disappear from the scene and this justifies a proverb which is prevalent in my part of the country which says that he who succeeds is one that is defeated and the defeated litigant is one that is dead.

In our laws, there are logical defects and ambiguities. In some cases, there is incomprehensibility. Some are incomplete. Some have got lacunae which prevent expressing logically complete ideas. In order that justice shall be smooth, and cheap the machinery for the implementation of the laws must be smooth and speedy. The technicalities of the procedural law have turned the salutary principles of substantive law into wormwood. The delays and dilatory tactics ought to be curtailed. As you are aware, the Civil Procedure Code provides a number of gadgets which promote the very things they exist to prohibit. In a civil case, delay itself has disastrous consequences. Therefore, the appointment of a Commission is the only way of enquiring into these causes for these state of affairs and removing the factors that outlive the reasons of their existence.

Coming to case law, we have in our legal system a mixture of conflicting case laws. It is expedient from time to time that these explanatory and supplementary laws are codified and incorporated into a separate edition. No sooner this is done, than the process of interpretation, which is the genesis of case law will begin to operate. The Legislature ought to be vigilant and provide a touchstone of answer to the public opinion and the needs of the time. The proposition on hand provides an opportunity to inquire into the extent to which the legal system satisfies the requirements of this provision. Our defence lies not in armament, not in science, not in going underground, but in law and order. The proper administration of justice is the essence of democratic Government.

One important event that compels the revision of our laws is the advent of our Constitution. In our Constitution we have got many directive principles of state policy. These directive principles as they remain are non-justiciable. But it ought to be the aim of a purposeful legislation to secure the assimilation of these principles into the *corpus juris*. The degree of their expression in the law of the land is the degree of success of these principles which have got a constitutional mandate. Therefore, the system of substantive law, and the basis of their codification need fundamental review in the background of the directive principles of state policy incorporated in our Constitution. Legislations creating statutes, where there is a need for the state's interference on account of the disparity of bargaining power of the contracting parties, and the basis of such legislation ought to be more positive and consistent with the ideas of a welfare state.

Another cardinal requirement for the effective administration of justice is the adjectival law, which seeks to implement substantive law. The degree of efficacy of the law is directly proportional to the simplicity of the former. The ritual of procedures often eats into the substance of this right, and renders the administration of justice a reproach. It is high time that the principles of procedural law are redeclared in its various applications. The procedural laws in relation to civil and criminal murders have to prescribe a rigorous standard of time-limit for pendency of litigation, bear in mind that justice delayed is justice denied.

Coming to the criminal side of law, there are so many lacunae in our criminal law that cases of miscarriage of justice are too numerous for any Legislature to ignore. The hands of the executive have got to remain fettered now. Now various amendments are suggested to the Criminal Procedure Code while the grounds of apprehension about their deserving, have not wholly ceased to exist. It is a strange logic to think that a bad thing improves by giving it a good name. Even in England, where the administration of the police is an ideal of the world, a great judge had occasion to remark that once a chargesheet is framed, the police develops the spirit of a hunter and discards the rules of the game, and unless that is highly improved, the executive has to expend its power very guardedly.

Coming to the appellate jurisdiction, the scheme of present appellate jurisdiction is in need of thorough revision. The availability of the hierachy of these appellate jurisdictions is no guarantee of accuracy in the final results. Therefore, the basis of these appellate jurisdictions needs thorough revision. In England, a committee was appointed very recently under the chairmanship of Raymond Evershod to inquire into the substantially identical questions with a special reference to the reduction of the cost of litigation. The report of that committee has been published, and our learned lawyer friends can make use of it.

Lastly, there are laws in our country, State laws as well as Central laws, which are contrary to fundamental rights. It is high time that a Law Commission is appointed to inquire and find out how far these laws are consistent with our fundamental rights, so that they may be brought up to a level where there will be consistent with the principles of our fundamental rights.

I commend to the consideration of this House that the legal system of India needs a thorough reconstruction consistent with the new fundamental values we have set before us, with the political and social aspirations, and the glimpses of new civilisation looming large in the mental horizon of India, and I commend the constitution of a Law Commission with this end in view.

**Mr. Chairman:** Resolution moved:

"This House resolves that a Law Commission be appointed to recommend revision and modernisation of Laws, Criminal, Civil and Revenue, substantive, procedural

[Mr. Chairman]

> or otherwise, and in particular, the Civil and Criminal Procedure Codes and the Indian Penal Code, to reduce the quantum of case-law and to resolve the conflicts in the decisions of the High Courts on many points, with a view to realise that justice is simple, speedy, cheap, effective and substantial."

There are two amendments to this. Do the hon. Members concerned want to move them?

**Shri Nageshwar Prasad Sinha** (Hazaribagh East): Yes.

**Mr. Chairman**: The hon. Member may move his amendment. There is one in the name of Shri Sadhan Gupta. He is not here. So, it is not moved.

**Shri Nageshwar Prasad Sinha**: I beg to move:

That for the original Resolution the following be substituted, namely:

> "This House resolves that a Committee of legal experts be appointed to study the various reports, *e.g.* Rankin Committee's Report 1924-25, Dass Committee's Report 1949-50, Wanchoo Committee's Report, Trevor Harris Committee's Report, the Bihar Jury Committee's Report and the latest Memorandum on Reform of Judicial Administration in India by Dr. K. N. Katju, and to recommend to the House the steps to be taken in the matter of making laws simple and justice expeditious."

**The Prime Minister and Minister for External Affairs and Defence (Shri Jawaharlal Nehru)**: I should like to say at the outset that we accept the Resolution, in so far as the appointment of a Law Commission is concerned. Indeed, we had come to this decision some considerable time ago. The hon. Member might remember that there was a resolution to this effect passed by the All India Congress Committee. After that, we gave thought to this matter, and we agreed that this should be done. In fact, we are now engaged in considering the steps to be taken towards that end.

The hon. Member who proposed this Resolution went rather deeply into social and other matters. For my part, if I may say so, I am very largely in agreement with his approach to this question. But I am not quite sure if learned lawyers are also in agreement with that approach—some may be, I hope—because I find that the more learned a person grows, the more is the tendency for him to become rather conservative in his approach; there is such weight of learning which prevents him from moving too fast.

I cannot say, at this stage, what exactly the terms of reference might be, or the personnel might be. That will have to be considered. But broadly speaking, as regards the fact that it is very necessary to have a Law Commission to cover this vast field and try to simplify it and modernise it and make it more in keeping with modern conditions, I entirely agree with that. There is almost a difficulty to be faced in these matters. First of all, when we talk about a Law Commission, there is the idea of a Law Commission which does its job and then ends. There is another idea of a continuing Law Commission, which is sitting all the time, and revising; it is a permanent or a semi-permanent body. I think that for the moment, we should have a Law Commission, not a permanent one, but to consider the situation as it is, and make its recommendations for the consideration of Parliament. That very Law Commission may suggest the formation of a permanent body. That too may be considered at that stage. But at this stage, to have a permanent body would be inadvisable, at the stage where we are.

Secondly, the subject itself is a vast subject, and in fact, really covers almost the whole ground of many of our economic and social activities, not directly but indirectly. If any Law Commission is to consider all that, then it may well happen that the Law Commission goes on sitting year after year, without finalising its conclusions or recommendations. That too would be unfortunate. If we give it much too wide a field to roam about in, its wanderings may never end, and what we want may be greatly delayed.

3 P.M.

The hon. Member laid great stress on the fact that justice delayed is justice denied. It is obvious, of course. All the best laws in the world are no good, if they cannot be applied and implemented with a fair degree of promptness. Now again, if we appoint a Law Commission which takes such a very long time to conclusions, not because of its desire to take a long time, but because of the vast field that is referred to it, then we have to wait all that time. And even in that case, I should imagine it would be better to go step by step, get something done, and then think of the next step, instead of trying to change the whole structure at one swoop. As a matter of fact, if an attempt of that kind is made, and something is produced here in this House for the consideration of Parliament, which covers the whole ground, well, we might have something in the nature of a Bill, of a big tome. We may consider that for months and months and never get going with it. That is the difficulty. As the House will remember, in the case of the old Hindu Code Bill that we introduced, quite apart from the merits or demerits of it, it was such a big thing that it was difficult ever to get it through. So, it was decided to split it up, take each part separately, get through with it and take the next one. Therefore, in this matter too, it would probably be desirable, subject to what final decisions might be taken, to take it up in bits and parts, rather than the whole scheme of things. It is perfectly true that while taking a certain part of piece one must have a broad picture of the whole in mind; otherwise you may have one bit and the other which does not fit in. Therefore, the Law Commission should have a broad picture. Having that broad picture, it can proceed with parts of it in some detail and Parliament will consider those parts and deal with them. Thus, we can make some progress.

So, subject to what I have said, I accept this Resolution.

**Shri S. V. Ramaswamy** (Salem): Mr. Chairman, Sir, the draft of this Resolution is mine and I went on collecting the signatures of 58 Members. Shri Thimmaiah got the ballot.

Now, Sir, this is a very comprehensive Resolution and we are indeed thankful to the hon. the Prime Minister for straightway accepting the necessity for appointing a Law Commission. The Resolution seeks "revision and modernisation of Laws, Criminal, Civil and Revenue, substantive, procedural or otherwise." It mentions certain particular Codes. Secondly the Resolution seeks to "reduce the quantum of case-law and thirdly to resolve the conflicts in the decisions of the High Courts on many points, with a view to realize that justice is simple, speedy, cheap, effective and substantial."

Sir, the main point about the judicial system in our country is that it is complicated. The enormous delay that is caused in the dispensation of justice, leads to certain inevitable consequences, namely, the utter ruination of the litigant public.

Take for instance the civil law. The Civil Procedure Code is mainly responsible for the delays. I am sure hon. Members would have read the Civil Justice Committee's Report of 1924-25, to which a very useful note is appended by Sir Tej Bahadur Sapru. Certain facts mentioned in it are true to this day. The Procedure Code is so carefully drafted after the British pattern that in its actual application there is enormous scope for blocking the process of law, with the result that both the plaintiff and the defendant are ruined.

[Shri S. V. Ramaswamy]

I do not want to elaborate on this point. Many of the hon. Members of this House are lawyers. I will deal with Order XXI which has got 103 Rules dealing with execution. As has been well said, the difficulty of the litigant really starts after getting the decree. In the process of summons, filing of documents, interrogations and so forth, there are endless delays. At last, after a lapse of some years he gets a decree. That is not the end of his troubles. As an experienced lawyer you know, Sir, that the obtaining of the decree is just the beginning of his troubles. There are even cases where after obtaining the decree people have been unable to execute it, not because of unwillingness on their part, but because the law is so cumbersome, and so full of scope for obstructive tactics; and at last in despair they come to some sort of agreement, or ultimately give it up. May I, in this connection, read an extract from one of the minutes of the Civil Justice Committee, 1924-25:

> 'The one outstanding feature of the law of execution in India is the leisurely manner in which a decree may be executed. Article 182 of the Law of Limitation provides for the execution of a decree or order of a civil court; the period of limitation prescribed for the execution of a simple decree is three years or where a certified copy or decree has been registered, six years. I confess that this looks very simple, but when the third column of the schedule is borne in mind, then it will appear what a complicated system we have provided. It will probably interest His Excellency to know that on this seemingly innocuous provision the rulings of the various High Courts ...... cover something like 75 closely printed pages. I have always felt that these provisions are a standing temptation to dishonest decree-holders and dishonest judgment—debtors to trouble, annoy and cheat each other and to prolong execution at their will and pleasure by taking shelter behind a thousand and one pleas which legal technicalities can raise.'

This was an opinion expressed somewhere about 1924-25. Nearly 30 years have elapsed, but we have not done much to reduce the time within which a decree-holder can get execution. We have not reformed, amended or revised our Civil Procedure Code in such a manner that delays could be reduced and justice could be rendered to the person who has obtained the decree. That way lies a great need primarily to reform the Code.

When Law Commission, as promised by the hon. the Prime Minister, is appointed the first thing that should be dealt with is the Civil Procedure Code, with its cumbersome sections, rules and orders. It should be simplified and brought to sizable proportions. Side by side with it we must also deal with the law of limitation about which I have read a passage. I have always felt in the course of my practice that this Law of Limitation needs drastic reform. I am only waiting for a day when this law also will be referred to the Law Commission so that it may be revised drastically to see that justice is meted out to litigants as quickly as possible. It has been suggested now that not mearly is the revision to be there, but there should also be the modernisation of the laws. Let me deal, in this connection, with criminal laws. As you know, the Indian Penal Code is nearly 95 years old—having been framed in 1860. The social conditions, the ideas with which crime should be dealt with and everything else was entirely different at that time. The basis, the atmosphere in which this Code was brought into being, is different; conditions have changed, our outlook of society has changed. Whether we should emphasise the penal aspect of the criminal law or the reformatory aspect of the law is also much under consideration. In certain advanced systems of criminal jurisprudence, the reformatory aspect of criminal justice is emphasised more than the penal or punitive aspect. In that way, the Italian system is considered to be very good. We have made no attempt to reform this Penal Code, some of the provisions of which are certainly archaic. Take, for instance, sections 312, 313 and 314. They do not in any way fit in with modern conceptions of social justice and social needs and social conditions. They are entirely unrelated to the social concepts of our modern times. I personally feel that they should be deleted; at any rate, there is need for modification and modernization to fit in with the life of our time and reflect the social purpose of the State.

Now, I do not wish to elaborate further upon this aspect. I have only given an illustration. I have also suggested that the revenue laws should be revised and modernized. The revenue laws of each State differ from the other. The revenue rules, for instance, in the Punjab may differ from what they are in Madras. Till lately we have been on the *zamindari* system. Wherever there was the *zamindari* system prevailing, the revenue laws were such that the ordinary man—the tenant—had very little rights to live upon. The law was definitely weighted against the ordinary tenant, with the result that the tenant under the *zamindari* system was groaning not merely under the weight of the system itself, but of the law which was heavily in favour of the *zamindar*. Now, the difficulty was also complicated by the fact that in those areas the elementary thing of survey lands was not being attended to. Disputes with regard to pathway rights, for example, of drawing water from wells, or with regard to tracks were not determined because there was no survey. Everything depended upon oral evidence. What record there was, was kept in the Estate office, so that the ordinary tenant could not find out records bearing on title. We have passed a series of legislation by which the *zamindari* system is abolished, but yet the difficulties of the people are still there for the reason that the records are not complete. Surveys are not yet complete. The laws in regard to those areas have yet to be revised, so far as revenue matters are concerned, and modernized so that what obtains in the *ryotwari* areas, for instance, where the position is slightly better than in the *zamindari* areas, is equated with the rights of the people in these areas, and the condition of the people improved in such a manner that they can get justice easily and cheaply.

I do not want to elaborate because perhaps my time may be limited. I now come to the second aspect, namely, reduction in the quantum of case-law. I was looking into the history of the Law Commission in U.K. There was a Committee appointed as early as 1866 to codify the law. I find that that Committee said:

> "Speaking of the bulk of the statutes and the amount of judicial decisions, they calculated that the judicial decisions were included in thirteen hundred volumes, exclusive of a hundred and fifty volumes of Irish reports ........"

I have not calculated all the statutes and decisions in respect of our country, but all I can say is that even statues—bare Acts—passed by the Central and State Legislatures come to one bulky volume containing 1,500 pages per annum. If the bare statutes are of that size, what about case-laws and decisions? There is urgent need to reduce the quantum of case-law also. It is possible that it can be brought about if there is a proper revision of the law. The Commission can go into this question and bring their expert knowledge to bear upon this problem.

The third point is about resolving of conflicts in the decisions of the High Courts. You know on the simple question of section 162 of the Criminal Procedure Code as on section 27 of the Evidence Act, how each High Court differed from the other, with the

[Shri S. V. **Ramaswamy**]

result that ultimately, I believe, it was the Full Bench of the Lahore High Court which decided the question which was accepted by the other Courts.

Take again the case of section 411 of the Criminal Procedure Code, that came up in the Thyagaraja Bhagavathar case. The decisions were conflicting. We did not know where we were, and even now on very many points of law each High Court interprets each point of law in its own way and there is no consensus of opinion. This, again, helps to make for delay, each party quoting decisions in its own favour, there are decisions for any standpoint or for any point of view. The result is that there is enormous delay leading to appeals and further appeals and so on.

I do not wish to elaborate on this point especially since the Prime Minister has been pleased to accept the Resolution. I only wish that the Commission is appointed soon and in the initial stages some important laws, such as the Civil Procedure Code and the law of limitation, may be referred to them. I personally feel that there should be a permanent Law Commission working right through the year to revise the laws of this country and keep on revising them so that the object of the Resolution, namely, 'to realise that justice is simple, speedy, cheap, effective and substantial' may be achieved.

**Shri C. C. Shah** (Gohilwad—Sorath): I am glad that the Prime Minister has accepted the principle underlying this Resolution and has agreed to the appointment of a Law Commission. I am sure this Resolution will have the unanimous support of the whole House..........

**Shri B. S. Murthy:** Where is the difficulty now?

**Shri C. C. Shah:** ..........but it is necessary that we should know precisely what a Law Commission can do and how it can proceed about it. Because if we read this Resolution and the two substitute Resolutions which have been moved to it, all three of them end with the sentence, that justice should be speedy and inexpensive.

Now, that is one part of the demand for the appointment of a Law Commission. But as you follow the speech of the Mover of this Resolution, as also those who are thinking about it, you will find that there are all kinds of notions about what a Law Commission can do or should do. The Prime Minister spoke, for example, of what the terms of reference of such a Commission should be and what its personnel shall be. Now, my submission is this, that there are three or four things about this subject which we want to, and should, keep quite separate. The first thing, for example, is to make justice speedy and inexpensive. Now, that is essentially a subject for treating the procedural laws of the country in order that justice may be speedy and inexpensive. That is one object to which the Law Commission should apply its mind immediately.

Then the other thing which the learned speaker spoke about while supporting this Resolution is the modernization of these laws with a view to bring about social justice, to bring them in line with our ideas of economic and social equality and so on. Now, that concerns itself with what one may call the content of laws, what the laws should be—the substantive law. I submit a Law Commission of this nature cannot deal with all the substantive laws of this nature in all the fields of activity in which legislation enters in order that it may bring about social justice and so on. Take for example the industrial legislation. I submit it would not be a part of the work of a Law Commission of this character to advise us as to what kinds of industrial legislation we should undertake. You may also take for example revision of the Hindu Law which we are undertaking. But, the essential and immediate function of the Law Commission of this nature, I submit, should be to revise the Criminal Procedure Code, Civil Procedure Code Evidence Act and all other procedural laws which make for delay. In doing that, the question we are faced with is whether we shall do it within the frame-work of the present legal system which we have inherited or whether we shall go to the root cause of the matter and have a legal system somewhat different, if not entirely, from the one under which we are functioning today. With respect, I would submit that if we are to change the legal system altogether, then, in order to consider a change of that character, speaking about the personnel of such a legal commission I should say, we need more persons who are jurists rather than only lawyers. A successful lawyer—I submit with the greatest respect to successful lawyers—can rarely suggest amendments to laws which will make it speedy, inexpensive and so on. Our minds are so conditioned. But, it is essentially the function of a jurist who thinks of the fundamentals of things of the entire judicial system by which it functions and a jurist need not necessarily be a successful lawyer. In fact, many jurists are not successful lawyers, but they are students of law who have applied their minds to the manner in which the entire judicial system should function. When we come to consider it, there are so many cognate matters which we must take into account in the reform of the judicial system because expensiveness of the judicial system or the delays inherent in it arises out of several other things like the organisation of Courts the legal profession and its remuneration, recruitment of the judiciary etc. There is in the first Court, second Court, third Court, fourth Court etc. There is tier after tier of Courts in the system which we have. What shall be the organisation of Courts? Whether we shall provide a number of appellate Courts or it will be limited; whether the jurisdictions both territorial and pecuniary will be water-tight divisions as we have today, or it will be of a different character, and so on.

Then a Commission of that character will have to consider the recruitment of the judiciary because the delays and the expensiveness of the judicial system today arise both out of the constitution of the Courts as well as constitution of the bench. The Commission will have to consider the kind of men which we shall have on the bench, the manner of recruitment, terms of their employment and so on. This is what will make for speedy and inexpensiveness, rather than consideration of the revision of substantive laws. Then comes the organisation of the legal profession which is part of the machinery by which justice is administered. What shall be the organisation of that legal profession and the remuneration to be paid to that profession. The expensiveness of justice today arises out of two things: Court fees which the State charges and the lawyers' remuneration. Dr. Katju has often told us—and in his memorandum he has also stated—that Court fees should not be considered a source of revenue by any State, and yet how many States there are in India today that do not consider that to be a source of substantial revenue? Heavy fees are one of the charges which the litigants have to meet with. So, I submit that a Commission of this character should consist of jurists rather than only lawyers and it should apply its mind more to the procedural part of the laws. As I said, it should also look to the recruitment of the judiciary, organisation of the legal profession, remuneration to be paid to the legal profession and the constitution of the Courts. These are the things which the Commission can do immediately.

Then, the second thing which this Resolution envisages is reduction of the quantum of case-law. That, as I said, arises out of this, as to the kind of legal system which we are going to have. There are continental judicial systems which do not give to case-law that amount of importance which the British or the Anglo-American system gives. Therefore a Commission of this character will have to study the legal systems of the various other countries

[Shri C. C. Shah]

which make for speed and justice, rather than the only legal system which is known to us since the last 200 years, namely, the Anglo-American System. And, the enormous case-law which we are having today is more a hindrance to the administration of justice rather than a help to it. Then there is the indiscriminate manner in which these cases are reported. You can quote anything and you can always get a case either for or against you.

The third thing which we have in mind is revision of existing laws. What do we precisely mean by revision of existing laws? On the one side, as I said, the first branch of the thing is to make justice speedy and inexpensive. Then the revision of existing laws would mean revision of all substantive laws as well—the penal laws, Hindu Code, Muslim Law and so on. That is a vast subject which can be undertaken by stages by various other Law Commissions and not necessarily by one Commission alone. On the other side, at the same time—I agree with the hon. Prime Minister in that and I hope he will consider that—we need a permanent Law Commission which will keep itself in touch with the case-law because it is not only necessary that we make laws, but it is also necessary that we should be continuously in touch as to the manner in which the Courts interpret those laws and apply those laws. Wherever we find that any interpretation put by a Court of law defeats the spirit of that law, defeats the intention with which that legislation is made, or wherever we find that any technical points in law defeat the ends of justice, it should be the duty of the permanent Law Commission to continuously keep itself in touch with the decisions of all Courts and to suggest immediate revision or amendment of laws wherever either the interpretation is contrary to the spirit of the legislation or intention of the Parliament or wherever a technical point has defeated the ends of justice.

But, that is not all. I submit, something more will have to be done in order that this thing can be done continuously. What is the manner in which these laws are made at present? We have the Ministry of Law and we have the various other Ministries. How are these laws made and what function does the Ministry of Law perform in that? Now, take for example—I am only giving an illustration; I am not casting any reflection—a law like the Company Law. It is a very important piece of legislation, yet we find as if the Ministry of Law has no responsibility in legislating a law of this character. Or, take the Estate Duty Bill—I mean no reflection on the Ministry which has handled that legislation; in fact it has handled it in a very efficient manner—which is also a very important legislation. What I submit is, it must be principally the function of the Ministry of Law to take responsibility for every piece of legislation. Of course, the policy may be decided by the department concerned, but short of the policy being decided, it must not be left entirely to the Ministry Concerned to pilot the Bill, draft the Bill, accept or reject amendments; so on and so forth. The Ministry of Law, in fact, must function more effectively than it is doing today if we are to have an administration of justice which will meet the needs of the situation. In England, for example, they are seriously considering a proposal to call it not merely Ministry of Law but Ministry of Justice, the idea in calling it Ministry of Justice being that, that Ministry must concern itself with every aspect which concerns administration of justice. Take for example the recruitment of the judiciary. The Ministry of Law does not seem to feel its responsibility and it appears it is the function of another Ministry.

**Shri N. C. Chatterjee** (Hooghly): It does everything except 'law'.

**Shri C. C. Shah**: If we want to reform the entire judicial system we will have to reorganise the Ministry of Law in order that it undertakes its proper duties and functions. In fact, there should be a co-ordination of work and nothing should be left to any other Ministry in judicial matters. Take for example the industrial legislation. It is a most important branch of our law and a number of industrial tribunals are giving all kinds of decisions which affect the economic policy of the country. It is left only to the Labour Ministry to find out whether it will undertake the amendment of any particular labour law or not. Obviously, it is the duty of the Ministry of Law, which I would call the Ministry of Justice, to see what particular legislation must be undertaken to carry out the real intentions of Parliament and meet the ends of justice. I, therefore, submit that the immediate function which we may perform is two-fold: appoint a Law Commission which will concern itself mainly with the procedural laws of the country and the reform of the judicial system, bearing in mind the recruitment of the judiciary, the organisation of the legal profession and similarly the constitution of Courts and other things which concern the administration of justice; and a re-organisation of the Ministry of Law which will continuously be in touch with every field of law.

**Shri N. C. Chatterjee:** In a speech seconding this motion, the Prime Minister flung an interesting innuendo that the more learned the man, the more conservative he is and develops the habit of being a stumbling block to reform. If it applies to my friends in the legal profession, I enter an emphatic protest because it is not correct in the first instance. I am one of those, not very learned lawyers, who have been pressing for the appointment of a Law Commission and if the House will remember, when Dr. Katju sponsored the Criminal Procedure Code (Amending) Bill.—think of him and he is bound to come....

**The Minister of Home Affairs and States (Dr. Katju):** At least think of my name.

**Shri N. C. Chatterjee:** I was pressing that a Law Commission should be appointed to go into the matter and take a comprehensive view of our legal systems so far as administration of criminal justice is concerned. I am one of those who have some experience of law and administration of justice, and I am convinced that a Law Commission is long overdue. As a matter of fact, when I retired from the Bench, the Chief Minister of my State, Shri B. C. Roy, requested me to serve on a Commission which he appointed and Dr. Katju was Governor then. Shri Roy appointed a Law Reform Commission presided over by a very experienced Judge, who was the Chief Justice of Punjab, Chief Justice of Patna and later became the Chief Justice of Calcutta High Court—Sir Trevor Harris—and I can assure you that the other members were fairly successful practitioners at the Bar, and all of them did a good job of it and tried to simplify it. No responsible lawyer, who is a thinking citizen, will take up the attitude. When interests and duty come into conflict, it is generally the interests which predominate over duty. I know that for legal practitioners it may be sometimes desirable from the mere professional or financial point of view not to have speedy justice, but I do not know of any responsible member of the profession who has taken up that attitude. I can assure you that Sir Trevor Harris's Committee made recommendations which, if implemented, would simplify to a large extent the legal procedure and bring about speedy justice.

You know that there had been a continual conflict in Europe between two schools of thought and one was the school of Common Law. In England they believe not in legislation but in development of law in the Law Courts. They believed in induction and you will remember the great saying of Lord Tennyson in one of his great poems—in England freedom was trodden down from precedent to precedent. Remember the great jurist Bentham wanted to bring forward a Bill for the purpose of codification and for enactment of law, but that was turned down. The French took a different view and a code was enacted by Napoleon, who appointed a Law

[Dr. Katju]

Commission consisting of jurists and only jurists—jurists of course include successful lawyers too—and they made a good job of it and that has revolutionised the French law. In Germany, Savage fought against a legislation and he said that law would become petrified. After all, law is not self-expending; and no self-progress or self-reform are there, and therefore he said that it is no good asking the Parliament to enact some laws and it cannot really reform it and therefore it is much better to leave it to the development of the social conscience.

As the hon. Mover of this Resolution pointed out, our laws were really enacted by great Judges and great lawyers sitting in Whitehall and in the Temple Inn in England. Lord Romely drafted; Stephenson drafted; to some extent, Macaulay drafted; As you know and any legal practitioner would know, it is absolutely out of date. Take for instance, our Contract Act and the English Contract Act. Our Contract Act would perhaps be the first edition of their Contract Act. Look at the latest edition of Pollock and you will see an entirely different system of contract law. I had some work in the commercial courts in Calcutta High Court—I claim to know something of commercial law I am convinced that the English law of contract has changed completely beyond recognition; the law of frustration is a new chapter. The doctrine of unjust enrichment, which is an entirely new chapter, is incorporated in the English law. There was a process of English judicial development stage by stage and it has developed their Contract Act. Our contracts are bound by the Indian Contract Act. The other day the Attorney-General was arguing a case on the law of contracts and it was a case of frustration, and the judgment was delivered by Mr. Justice Mukherjea, whose appointment as the next Chief Justice of India has been announced today, and he said "I am not Lord Wright who revolutionised the English law, and here I am governed by the Indian Contract Act and cannot go beyond that. Therefore, our law is a hundred years behind the progressive codes of England. Therefore, it is not true to say that we shall only leave it to the judge-made law or such law that will develop from time to time by judicial pronouncements or by precedents. Precedents are inducted; precedents are isolated. Legislation is deduced, legislation is comprehensive and legislation is general. A situation has come when you have got to set your own house in order. I agree with my learned friend Shri Shah, for whom I have great regard, when he pleaded that you should not only simplify the Criminal Procedure Code and the Civil Procedure Code but also take up the question of improving the Contract Act, the Specific Relief Act, the Transfer of Property Act and such other important Acts. After Sir Tej Bahadur Sapru became the Law Member of the Government of India he was the first great man—call him Jurist, call him advocate or a great legal practitioner—who said that it was a scandal the way laws are going on, and he appointed the Rankin Committee, of which Sir John Rankin was the Chairman. Since the report of Sir John Rankin, there has really been no comprehensive effort made for law revision in India.

**Dr. Katju**: What followed?

**Shri N. C. Chatterjee**: Dr. Katju filled the gap—the post of Tej Bahadur Sapru. I want him to appoint immediately a Law Commission.

**Dr. Katju**: What followed the Rankin Committee's Report?

**Shri N. C. Chatterjee**: After that committee, some improvements were made, some amendments were made and the Arbitration Act was complete. You know it is an entirely new Arbitration Act. The civil procedure was also, to some extent, modified. But since then there has been nothing realy done. Now we have got solid law enacted-the Constitution of India —and in that Constitution we have put in deliberately article 13. Article

13 says that all laws in force before the Constitution of India came into force, and which were inconsistent with the Constitution shall be void and that no State Legislature shall enact any law which is repugnant to the Constitution, or, is in any way inconsistent with the fundamental rights. But it does not stop there. The Constitution which was promulgated in the 26th January, 1950, also declared that all existing statutes anywhere in India, to the extent of the contravention of the fundamental rights, would be void. It says they would be void. Therefore, the Constitution-makers have deliberately pronounced that all those statutes which were repugnant in any way to the provisions of the Constitution are all dead. But don't you know that there are statutes which are still repugnant to the Constitution and which are found in the Statute-book? Don't you know that section 24A of the Indian Penal Code was declared illegal by the Punjab High Court? Don't you know that section 153 also has been declared illegal? Therefore, it was the duty of Parliament immediately to appoint a Law Commission to bring the existing statutes in conformity with the fundamental rights. Not that the Supreme Court or the High Courts derive any pleasure in striking down legislation but when they take their oath that they must abide by the Constitution, they have got to carry out this duty of striking down all statutes which are in any way repugnant to the fundamental rights. This morning, the Supreme Court has pronounced that some orders of the Government of Ajmer are illegal because they infringe the fundamental right. It leaves great uncertainty, confusion, anarchy. Therefore, I am pleading that there should be Law Commission with wide terms of reference, and which should be composed of lawyers—call them jurists, call them lawyers—but it must be mainly a lawyer's job. You may associate, if you like any other person, but it should be predominantly of lawyers. It should not be run on party lines, it should not be for party purposes, it should not be utilised for party purposes. The Law Commission should be constituted only with the purpose of bringing out law into conformity with the modern social concepts. Take England, for instance. Even in England, law has changed. Justice Jenner has published a book called *Changing Law* and he has pointed out how the law has changed even in England in spite of their common law habits, in spite of their being constitutionally repugnant to resort to parliamentary legislation. He points out the first section in Simon's *Law of Torts*, namely, that the Crown cannot be sued at all in any Court of Law for tort. No action in tort lies. Is it not an absurd provision, when you are nationalising department after department, when the entire transport system of a big State is being taken over by the Government and run exclusively on monopolistic lines? If a poor bus-owner commits a fault, he has got to pay heavy damages, but simply because it is an organised State which run the buses, even if the vehicle kills a man, or runs over a man, or maims a man or injures a man, there should be no question of damage! The English law has changed these old concepts. So, we have to bring our laws into conformity with the industrialisation of society, with the progressive nationalisation of certain industries, with the expansion of the public sector. The old laws must be changed completely; old notions of jurisprudence must yield to the exigencies of the situation. Our Constitution demands it. The Constitution has pointed it out—it makes it mandatory. I am, therefore, pleading for a proper perspective, for a larger survey and do not be deterred by the difficulties of the situation. It may be that it should be done in compartments: the bill of lading, contract law, charter partly including negotiable instruments may be taken in one year. The next year, you may take up, say, the law of equity, and so on and so forth. Thus, you may distribute the work. It must be done. The sooner it is taken up and properly

[Shri N. C. Chatterjee]

brought into conformity with the spirit and the letter of the Constitution and with the modern concepts of social justice, the better for India.

**Shri Nageshwar Prasad Sinha:** I maintain that there can be no two opinons on the point that a Law Commission is necessary. When the Prime Minister has accepted the Resolution in principle, of course, very little has to be said, because we have nothing more to do rather than to realise that the Government, that the party and Members on the other side of the House also agree more or less to the principle that a Law Commission is a necessity now. It is, I think, more or less a waste of time further to deal in arguments and try to convince one another of its necessity. I have moved an amendment and of course the main purpose or the purport behind that amendment is that we have already before us the reports of high-powered-committees like the Rankin Committee's Report, (the report that Shri N. C. Chatterjee has just now referred to)—that is, the Trevor Harris Committee's Report. Mr. Trevor Harris was also the Chief Justice of the Patna High Court for some time. His valuable report is also there. Again, the Bihar Jury Committee's Report, and the U. P. High-powered Committee's Report—I forget the name of the Committee—

**Shri N. C. Chatterjee:** Wanchoo Committee.

**Shri Nageshwar Prasad Sinha:** Yes, the Wanchoo Committee's Report. Thank you. So, we have got a mine of information in those reports, and therefore, I do not know what further work will a Law Commission have to do? Will all these reports go unexamined? We have also got the *Memorandum on Reform of Judicial Administration in India* by Dr. Katju. A parliamentary committee could have been appointed to go into these reports. It could have been either a parliamentary committee or a committee of legal experts or an *ad hoc* committee—you can call it any way—which could go into the question, set down the principle, could have fixed up the terms of reference and then referred the same to the Law Commision going to be appointed. My amendment is on this point, and I wish that the amendment could be accepted.

So far as revision of laws is concerned and so far as the main Resolution of the learned Mover is concerned, I have not been able to understand certain important things about it. I do not understand what he means by modernisation of laws. Of course, modernisation comes from the social concepts, the changes in society, the changes in modern thinking and all those things, but it is difficult for us, all at once, to take up the entire bulk of law and try to modernise them. Of course, we have seen from history that attempts in this respect, which were made even by other countries have failed more or less, though certain good things have been achieved by revising the statutes now and then, here and there.

I am just going to refer the House to a passage from the book *Law in the Making* by Mr. C. K. Allen. I find at page 250 of that book that number of Commissions sat in U.K. from 1834 onwards and though many of their recommendations never got beyond the stage of pious wishes, one result was that a series of Statute Law Revision Acts began in 1861 and got rid of an enormous quantity of obsolete matter. One Act of 1877 in itself repealed 1300 statutes. That shows despite all that it is still far from perfection and much more will have to be done to reduce the statutes to a more systematic form. I agree that there are difficulties. In this connection, I would like to place before the House the observations of Justice Mehr Chand Mahajan, Chief Justice of India. On this particular point, he says:

> "I wish to emphasise that there is a multiplicity of statute law in this country. Statute law of

> a very intricate and complicated character is responsible for the present state of things......In my humble opinion there should be an *ad hoc* reduction in the statute law that has been produced in this country *en masse*. I would, therefore, suggest that before undertaking any reform in the system of administration of justice the statute book of the counrty should be cleaned and only those laws which are considered absolutely essential for the society should be allowed to remain on the statute book and the rest of them scrapped and even those that are allowed to remain on the statute book should be made simple and easily intelligible. Everyone is supposed to know the law but it is a question how many really know it. Simplify your laws and the present system will work very nicely."

It is however difficult to distinguish the enactment of laws from the actual machinery which has to run the laws. But I confine myself to the present question. It is not an easy or a comfortable task to take up revision and deal with it in a fashion which would bring no credit to this House. I therefore, press my amendment and say that preliminary to the appointment of a Law Commission which has been accepted in principle by the House, there should be a Committee of legal experts to frame the terms of references and to bring before us the whole range of subjects which have got to be taken up for consideration before the Commission is appointed. With these words, I move my amendment.

**Mr. Chairman:** Before Pandit Upadhyay begins, I shall make one point clear. According to the time table, this Resolution should take 2 hours and 39 minutes. It started at 2.35 or so and so it can go on till 5.15 or 5.14 or something like that. But I find that the hon. Prime Minister has made a statement and the hon. Home Minister is likely to speak. If the House so wishes, I feel that the Resolution may take half an hour more so that we can discuss it and then, if the House does not want to go on further with that Resolution, at that time, I shall put it to the vote of the House. I am entirely in the hands of the House. I do not want that we should go on unnecessarily with this Resolution. I shall put it to the vote of the House after hearing Dr. Katju and such other hon. Members who want to participate in the discussion.

**Shri Raghavachari** (Penukonda): If you permit me, I would also make a request. A few minutes may be left over to the next Resolution.

**Mr. Chairman:** I am saying exactly that. If it has been sufficiently discussed, I do not want that a minute should be wasted.

**पंडित मुनीश्वर दत्त उपाध्याय** (जिला प्रतापगढ़ पूर्व) : सभापति महोदय, जहां तक ला कमीशन की नियुक्ति आवश्यक समझी जा रही है, मेरी समझ में हमारे इस सदन के अतिरिक्त बाहर भी प्रायः लोगों का यही मत है। जो लोग जरा भी समझते हैं कि किस प्रकार से हमारे देश में न्याय करने का प्रबन्ध चलाया जा रहा है वह सभी लोग प्रायः यह महसूस करते हैं कि ला कमीशन की नियुक्ति आवश्यक है। मैं नहीं समझता कि इस वक्त इस की आवश्यकता बताने के लिये बहुत कुछ निवेदन करने की जरूरत है। परन्तु तो भी एक दो बातें निवेदन करना मैं आवश्यक समझता हूं।

हमारे कानून जो बने थे, जिन कानूनों के मुताबिक हमारे यहां आज न्याय किया जा रहा है, वह कानून उस समय बने थे जब इस देश में गुलामी थी। जब हम को कोई अधिकार नहीं था। हमारे बनाये हुए कानून यह नहीं हैं। यहां विदेशी राज्य करते थे, उन्होंने अपने दृष्टिकोण से कानून बनाये थे और जो कानून इस समय हमारे यहां चल रहे हैं वह प्रायः उन्हीं के समय के हैं। इस में कोई सन्देह नहीं है कि जब कहीं कोई विदेशी राज्य करता होता है तो उस का दृष्टिकोण वहां के रहने वालों के दृष्टिकोण से भिन्न होता है और उस दृष्टिकोण की झलक

[पंडित मुनीश्वर दत्त उपाध्याय]

सब से पहले वहां के कानूनों में आती हैं। हुकूमत के जो नियम बनते हैं उन में जरूर उस की झलक आती है और कहना तो यों चाहिये कि एक तरीका, एक पद्धति यहां उन के राज्य करने की थी, जो पद्धति कि उन के यहां अपने देश में राज्य करने की थी उसी के आधार पर, उसी पद्धति को रखते हुए, उन्हीं कानूनों के लिहाज से, उन्हीं कानूनों के मातहत, उन्होंने अपना राज्य यहां पर चलाने का एक तरीका अख्त्यार किया था। सारे संसार में वह यह भी साबित करते थे कि हम ने कानून के जरिये से राज्य करने का तरीका तथा डिमाक्रेसी का अर्थात् प्रजातंत्रात्मक तरीका रक्खा है। जब कोई हुकूमत एक पद्धति के मातहत इस तरह के कानून बना कर शासन चलाती है तो निश्चित रूप से उस का दृष्टिकोण उन्हीं कानूनों के अनुसार ही होता है क्योंकि उन्हीं कानूनों के मातहत सारे देश का प्रबन्ध, सारी हुकूमत का प्रबन्ध ऐसे शासक लोग करते हैं। इस वास्ते जितने हमारे कानून बने हैं, प्रायः सभी में हमारे विदेशी शासकों का दृष्टिकोण रहा है, और उन के चले जाने के पश्चात् यह आवश्यक हो गया कि हम जितने कानून अपने बनावें या जो संशोधन अपने कानूनों में करें उन को उस दृष्टिकोण से करें जो हमारे देश का दृष्टिकोण हो, जो कि उन का दृष्टिकोण कभी नहीं हो सकता था जो ६, ७ वर्ष पहले हमारे देश के शासक थे। फिर उन शासकों के चले जाने के पश्चात् हमारे समाज में कितना परिवर्तन हुआ, हमारे रहन सहन के तरीके में कितना परिवर्तन हुआ, हमारी नीति कितनी बदल गई? हमारी नीति जो नीति पहले थी उस से बहुत पलट गई, एक रास्ते पर हम चल रहे थे, अब दूसरे रास्ते पर चल रहे हैं, ऐसी हालत में हमारे रास्ते में पुराने कानून से बड़ी अड़चनें पड़ सकती हैं, जो कुछ हम करना चाहते हैं उस के रास्ते में बड़ी कठिनाइयां हो सकती हैं। अगर हम एक आध ही कानून को उठा कर देखें, केवल एक दो कानून जो इन्होंने बनाये हैं, तो हमें पता चल जाता है कि उन का दृष्टिकोण क्या था। इस वक्त जो गणतंत्रात्मक राज्य हमारे देश में चल रहा है उस के हिसाब से जो एक व्यक्ति है, इस का सब से बड़ा स्थान है, सब से ऊंचा स्थान एक व्यक्ति का है चाहे वह कितना ही छोटा क्यों न हो। यह पद्धति हमारी पहले नहीं थी। यह दृष्टिकोण हमारे शासकों का नहीं था। उनका दृष्टिकोण यह था कि हमारा शासन कैसे सुरक्षित रहे। यह उनका मुख्य दृष्टिकोण रहता था। पहली बात जो उनके दिमाग में आती थी वह यह आती थी कि हमारा शासन कैसे सुरक्षित रहे। जब वह शासन की सुरक्षा सिद्ध कर लेते थे उसके बाद ही वह दूसरी चीजों पर जाते थे। और अगर हम उनके कानूनों को देखें तो उनमें इसकी झलक बहुत साफ है। मैं उनके केवल एक कोड के बारे में आपसे निवेदन करना चाहता हूं। उससे आप देखेंगे कि यह बात कितनी साफ है। उन्होंने इंडियन पीनल कोड बनाया। उन्होंने जो अपना पीनल ला बनाया उसको आप एक मिनट के लिए देखें। आप देखेंगे कि उनकी उस कानून को बनाने में क्या तरतीब थी। आप देखेंगे कि कानून बनाते वक्त कौन सी बात उनके दिमाग में पहले आयी। सरकार के खिलाफ जो जरायम हो सकते थे पहले उनके दिमाग में वह आये और उनके लिए उन्होंने प्राविजन किया। उसके बाद ही कौनसी दूसरी बात उनके दिमाग में आयी। तो दूसरी बात जो उनके दिमाग में आयी वह यह थी कि अमन किस तरह से कायम रहे। वह भी उसी का एक अंग है। जो शासन चलाता है वह अपने शासन को सुरक्षित रखने के लिए, उसको पुष्ट करने के लिए ऐसे कानून बनाता है जिससे शान्ति कायम रहे, कहीं पर कोई बदअमनी न हो। लिहाजा उसके लिए भी उन्होंने कानून बनाया। और फिर जितने अधिकारी हैं उनके लिए कानून बनाये, जैसे कंटेम्प्ट आफ कोर्ट है या कंटेम्प्ट आफ पब्लिक सरवेंट्स है, इसके लिए उन्होंने प्रबन्ध किया। फिर उन्होंने सिक्कों के बारे में कानून बनाये क्योंकि शासन चलाने के लिए धन की आवश्यकता होती है तो उन्होंने सिक्कों के बारे में कानून बनाये

इसके बाद उन्होंने वजन के बारे में कानून बनाये जिससे कि व्यापार चल सके। इसके बाद उन्होंने माप के बारे में कानून बनाये। और जो जरायम वजन और मेजर्स से सम्बन्धित हैं उनके बारे में कानून बनाये। इसके बाद उन्होंने इलेक्शन के बारे में भी कानून बनाये क्योंकि वह डिमाक्रेसी की भी एक शक्ल यहां रख रहे थे और इस प्रकार के शासन को चलाने के लिए यह आवश्यक था कि वह उन कानूनों को बनावें। और इन सब के बाद वह उस व्यक्ति पर आये जो कि आजकल हमारे शासन में मुख्य चीज है। प्रजातंत्रात्मक राज्य में व्यक्ति प्रधान होता है। आजकल के हमारे शासन में यहां का नागरिक सबसे ऊंचा स्थान रखता है। इसलिए अब हमको सबसे पहले उस व्यक्ति की रक्षा के लिए कानून बनाने होंगे। अगर उस पर कोई जरर आवे, अगर उस पर कोई हमला हो, उस पर कोई चोट आवे उसके बचाने के लिए हमको अब कानून बनाना चाहिए। तो अब सबसे पहले हमारे विभाग में वह व्यक्ति आवेगा। लेकिन आप देखेंगे कि हमारे पहले शासकों ने व्यक्ति के लिए जो कानून बनाया वह सबसे बाद में बनाया। व्यक्ति उनकी तरतीब में सबसे बाद में आता है। अगर किसी व्यक्ति के चोट लग जाय, ग्रीवस हो या सिम्पिल हो, या किसी का कत्ल हो जाय, इसका कानून उन्होंने बाद में बनाया।

4 P.M.

अगर मैं इस सारी तरतीब में जाऊं तो बहुत लम्बा चला जाऊंगा। आप चाहे जिस एक्ट को देखें, चाहे जिस कानून और कायदे को देखें आपको हमारे विदेशी शासक के दृष्टि कोण की झलक साफ दिखलायी पड़ेगी। लेकिन हमारा दृष्टिकोण वैसा नहीं हो सकता। मैं ने तो आपको एक बहुत मामूली सी बात बतलायी है। पेचीदगियों की बातें तो और माननीय सदस्यों ने आपके सामने रखी हैं जिनकी वजह से यह आवश्यक है कि जो कानून अबतक चलते रहे हैं वह आगे न चलते रहें। वह हमारे लिए मुफीद नहीं हो सकते, वह हमारे लिए सहायक नहीं हो सकते। जिस तरह का हम समाज बनाना चाहते हैं, जिस तरह की बातें हम करना चाहते हैं, जो तरीका हमने अख्तियार किया है, उसमें हमको ये कानून मदद नहीं कर सकते। हमको अपने विकास के लिए ऐसे कानून चाहिए जिनसे हमको अपने लक्ष्य को हासिल करने में मदद मिले। और जिनके द्वारा हम अपने देश को विकसित कर सकें। इसके लिए हम उस कानून पर विचार करें जो कि हमारे देश में प्रचलित हैं। पहले तो विकास का कोई जिक्र ही नहीं था। पहले तो हमारे शासकों को विकास से कोई मतलब ही नहीं था।

**डा० काटजू** : विकास से क्या मतलब है ?

**पंडित मुनीश्वर दत्त उपाध्याय** : डेवलपमेंट।

**Dr. Katju**: Contract is the result of two persons agreeing together. उसमें विकास क्या है ?

**पंडित मुनीश्वर दत्त उपाध्याय** : कांट्रैक्ट का कानून है उसमें भी प्रिंसिपल है, एजेंट है, एजेंसी सिस्टम है। इन सब के लिए जब आप कानून बनाने बैठेंगे तो प्रधानता किसकी होनी चाहिए ? अबतक तो एक कैपिटलिस्ट की ही प्रधानता रही थी। लेकिन अब वह चीज बदलती जा रही है। आज बड़ी जायदाद वालों की प्रधानता खत्म हो रही है।

दूसरी बात जो मैं निवेदन करूंगा वह जमानत के सम्बन्ध में है। कोई चाहे कितना ही बड़ा आदमी हो, चाहे वह कितनी ही बड़ी हैसियत रखता हो, चाहे वह अपने मुल्क का कितना ही बड़ा लीडर हो, लेकिन अगर वह चाहे कि इस बिना पर वह किसी की जमानत कर दे तो ऐसा नहीं हो सकता। जमानत उसकी हो सकती है जिसके पास ट्रांसफरेबिल जायदाद हो। वह उस जायदाद की बिना पर जमानत कर सकता है। वैसे आप चाहे जितने बड़े नेता हों, मेम्बर आफ पार्लियामेंट हों, और आप किसी की बेल करना चाहें तो अगर आपके पास जायदाद नहीं है तो दिक्कत होती है। अब तो समय बदल रहा है। शायद अब इतनी दिक्कत न भी रहे लेकिन कानून अब भी वही है, सिर्फ अधिकारियों का

[पंडित मुनीश्वर दत्त उपाध्याय]

रुख बदल गया है। वह समझने लगे हैं कि क्या होना चाहिए। हमारे कानूनों में कुछ संशोधन भी आ रहे हैं। लेकिन जब हम अपनी पहली हैसियत को आजकल की हैसियत से मिलाते हैं तो हम यह अनुभव करते हैं कि हमको अपने कानून बदलने चाहिएं।

इसके पहले हमारे जिन मित्रों ने निवेदन किया उन्होंने बतलाया कि एक मुस्तकिल ला कमीशन रहना चाहिए। मैं निवेदन करूंगा कि इसके पहले कि कोई ला कमीशन आवे, इसके पहले कि उसका काम शुरू हो, इस बात की बहुत जरूरत है कि यह सोचा जाय कि उसका तरीका क्या हो, किस तरह से उसको बनाया जाय और किस तरह से चीजें उसके सामने आवें। ऐसा करने के लिए यह आवश्यक है कि इस कमीशन के आने के पहले एक कमेटी बनायी जाय जिसके द्वारा वह क्रम निश्चित किया जाय जिसके अनुसार कमीशन काम करे। कमीशन बनने में चाहे कुछ देर भी लग जाय लेकिन यह कमेटी जल्दी से जल्दी बननी चाहिए, नहीं तो कमीशन आने पर उसका काम टलता जायगा, और मेरा निवेदन यह है कि यह काम ऐसा नहीं है जो कि टलता जाय मेरा निवेदन है कि जब हमारा ला कमीशन आवे तो कुछ बातें ऐसी हैं जिन पर उसका ध्यान जाना आवश्यक है। और वह बातें वही हैं जो कि उसकी आवश्यकता को बढ़ाती हैं, उसकी नियुक्ति की आवश्यकता को बढ़ाती हैं। हमारे जो वर्त्तमान कानून हैं वह बदलें और उनमें आवश्यक संशोधन किये जांय लेकिन उसके साथ यह भी आवश्यक है कि जो हमारी मशीनरी है कानून के चलाने के लिये, जो हमारा साधन है जरिया है काम करने का उसमें भी बहुत बड़ा परिवर्त्तन होना चाहिये, उसमें भी काफी संशोधन करने की आवश्यकता है। इसके अलावा हमें यह भी देखना है कि हमारा आधार क्या होना चाहिये, किसी कानून का, उसके क्या बेसिक प्रिंसिपल्स आधारभूत सिद्धान्त उसके पीछे क्या होने चाहियें जिन पर कि वह कानून बने, यह हमारे लिये सोचने की बात है और जैसा कि मेरे और कई मित्रों ने निवेदन किया इसके लिये केवल वकालत करने वाले बड़े बड़े वकील और जूरिस्ट्स ही आवश्यक नहीं हैं, इस कमिशन में ऐसे लोगों को भी लिया जाना चाहिये जो इसको समझ सकते हैं, और इस मसले की तह में जा सकते हैं और मेरी समझ में ऐसे लोगों का सहयोग कमीशन को अपना काम पूरा करने में काफी सहायता करेगा। आप किसी एक मसले को ले लीजिये। आज क्रिमिनल ला में तबदीली करने की बात बहुत चल रही है, उसी को आप ले लें, आप देखेंगे कि उस के सम्बन्ध में कितनी बातों पर आपको विचार करने की आवश्यक्ता होती है, मसलन् सेशन ट्रायल हो या न हो, कम्पाउन्डेबुल कोई जुर्म हो कि नहीं, वारंट केस हो कि नहीं या जूरी के साथ ट्रायल हो या नहीं, आनरेरी मजिस्ट्रेट होने चाहियें या नहीं होने चाहियें एपिलेट पावर्स क्या होनी चाहिये ट्रान्सफर एप्लीकेशंस किस हालत में होनी चाहियें, ये और इसी तरह के दूसरे सवाल हमारे सामने पेश होते हैं....

I hope no time has been fixed.

**Mr. Chairman:** The hon. Member has taken eighteen minutes already.

**Pandit Munishwar Datt Upadhyay:** Since I was told that no time-limit has been fixed....

**Mr. Chairman:** According to the rules, he can take only fifteen minutes. The hon. Member started at 3.55 p.m. I have noted the time here. He can go on for another two minutes.

**Pandit Munishwar Datt Upadhyay:** But as no time-limit has been fixed, did not confine myself to any time limit.

**Mr. Chairman:** In regard to Resolutions, the rule is that the Mover can take thirty minutes, while other hon. Members can take up to fifteen minutes. There is no question of discretion here. The rule itself is this.

**Pandit Munishwar Datt Upadhyay:** When I made a request that the time-limit may be fixed, it was not fixed.

**Mr. Chairman:** There is no question of fixing any time-limit. The rules require that the Mover may take thirty minutes, while others may take fifteen minutes.

If the hon. Member wants, I can give him two more minutes.

**Pandit Munishwar Datt Upadhyay:** I will take only one or two minutes more.

**Mr. Chairman:** Certainly.

**पंडित मुनीश्वर दत्त उपाध्याय** : मैं निवेदन कर रहा था कि यह जो इस तरह के परिवर्तन हैं, कानून में, उन पर विचार करने के लिये अध्ययन की आवश्यकता होती है और उस अध्ययन के लिये मैं समझता हूं कि अभी से कोई एक मशीनरी कायम हो जानी चाहिये, कोई एक संगठन बन जाना चाहिये जो ला कमीशन के सामने मैटिरियल आना है उस पर अध्ययन करके और उसको तैयार करके एक सही शक्ल में कमीशन के सामने रक्खे और यह काम किसी एक कमेटी के बना देने से या किसी एक संस्था के बना देने से नहीं हो सकेगा बल्कि होना यह चाहिये कि अलग अलग कानूनों के लिये अलग अलग आरगेनाइजेशन अथवा संगठन बना दिये जायं और अगर ऐसा किया जायगा तो इस काम में सहूलियत होगी । मैं अब हाउस का और अधिक समय नहीं लेना चाहता और मैं इस प्रस्ताव का पूर्ण रूप से समर्थन करता हूं । हमारी आल इंडिया कांग्रेस कमेटी ने भी इस को पास कर दिया है और अब इसमें कोई विवाद नहीं रह गया है कि यह बनाया जाय अथवा न बनाया जाय, केवल आवश्यकता उसके लिये तैयारी करने की और एक उपयुक्त मशीनरी कायम करने की है ।

**Shrimati Ila Palchoudhury** (Nabadwip): So many learned lawyers have spoken on this subject that I will be very brief about a point that strikes me merely as a woman. If at last Government has taken into its mind to have a Law Commission at all, and it feels it desirable to do so, let us hope that it will not be composed merely of learned lawyers and jurists, whose learning will not let them advance but sit heavy on them so that again we will have laws just as dry as dust, as laws are in India today.

**Dr. Katju:** The suggestion seems to be very graceful.

**Shrimati Ila Palchoudhury:** I, Sir, cannot hope to bring up law points, but I earnestly feel that this Law Commission should be composed of not only lawyers and jurists, but should include social workers, welfare workers, psychologists, and even medical men, so that they may put their minds together on what really needs to be done away within our laws, and also what needs to be put in.

Particularly, I would recommend that when such a Law Commission comes, it will give a special slant to juvenile delinquency in free India. In rural areas, I have had cause to see the way women and juvenile delinquents are treated. Such treatment today is really shameful. They are frightened out of their wits, they are dragged to Police Stations and questioned—while half the time they are so nervous, that they hardly know what is happening. That is not what should happen with any law in a welfare state! When a Law Commission is promulgated, I hope it will have a soft corner for young delinquents. At present, they are whipped, and all sorts of horrible things are done to them. The conditions that make them do many of these anti-social acts must be looked into. I hope the people on this Commission will search the social background of these youths and women and see why these delinquencies have happened, and do their best to correct those conditions. Surely, it is up to all Law makers to see that law-breakers are not merely punished, but that when they are at last brought in front of the law, their minds are reoriented.

[Shrimati Ila Palchoudhury]

their bodies are made whole; and they can go back again as good and useful citizens of India. Hand in hand with the law, Social Welfare Centres, Child Guidance clinics and such like institutions, must work in close and understanding co-operation.

In conclusion, I have only to submit that when such a Law Commission comes, not only will it secure, according to this Resolution, that "justice will be simple, speedy, cheap, effective and substantial", but it will also be human and merciful, and really act for the betterment of the people of India.

**सेठ अचल सिंह (जिला आगरा—पश्चिम)** : सभापति जी, मैं आपका बहुत आभारी हूं कि आपने मुझे अपने विचार रखने का अवसर दिया। हमारे देश में बहुत समय से यह मांग चली आ रही है कि समय के अनुसार कानून बनाने चाहियें और इस प्रस्ताव में उस कमी की ओर ध्यान दिलाया गया है और इस हेतु वह स्वागत योग्य है। अंग्रेजों ने हिन्दुस्तान में कानून अपनी सत्ता और अपनी धाक कायम रखने के वास्ते बनाये थे। वर्तमान कानून निहायत ही खर्चीला कानून है और इसके द्वारा न्याय मिलने में काफी समय और खर्च लगता है। लोग इन कानूनों के कारण परेशान हैं और उनकी वजह से भारतवासी कराह रहे हैं और जनता की इसी भावना को ध्यान में रखते हुए जोलाई सन् १९५२ में आल इंडिया कांग्रेस कमेटी ने आगरे में यह पास किया कि ऐसे कानून बनाये जांय जो देश की जरूरत के अनुसार हों और जिनमें कम से कम खर्चा हो और कम से कम समय लगे। इस प्रस्ताव द्वारा आज यह कमी पूरी होती दीख रही है। मैं आपको बताऊं कि जब सन् १९२१ में महात्मा गांधी जी ने असहयोग आन्दोलन चलाया था उस वक्त कोर्ट्स का बायकाट किया गया था, हमने आगरे में भी उस समय कोर्ट्स का बायकाट किया था। उस वक्त हमने आगरा शहर में पंचायतें स्थापित की थीं और हमारा अनुभव यह रहा कि जहां रोजाना पहले सैंकड़ों मुकदमे दायर होते थे वहां केवल दस, पांच ही दायर होने लगे और जनता बड़ी खुशी से अपने मामले पंचायतों द्वारा निबटा लिया करती थी। हमारा भारतवर्ष एक गरीब देश है और अंग्रेजों से पेश्तर यहां पर इस किस्म की अदालतें नहीं थीं, हर शहर व गांवों में पंचायतें हुआ करती थीं और वे वहां के लोगों का मामला निबटा दिया करती थीं और पंचायतों द्वारा निर्णय कराने में कोई खर्च भी नहीं होता था। यह कहावत भी प्रसिद्ध है कि जहां पंच होता है वहां परमेश्वर होता है और वहां पर जनता को पूरा पूरा न्याय मिल जाता है।

वर्तमान न्याय प्रणाली काफी खर्चीली है और उसमें समय भी काफी लगता है और देखने में आता है कि जो मुकदमा झूठा होता है वह सच्चा बन जाता है और सच्चा मुकदमा झूठा बन जाता है और अदालतों में वकील लोग कानूनी बहस चलाते हैं और झूठ को सच और सच को झूठ साबित करते हैं लेकिन जहां पर पंचायतें होती हैं वहां उनमें लोकल (स्थानीय) व्यक्ति होते हैं जो सब बातों को स्वयं जानते बूझते हैं और इस कारण वहां ठीक न्याय मिलता है।

**Shri Tek Chand (Ambala-Simla)**: Judges are witnesses.

**सेठ अचल सिंह** : इसलिये पंचायतों द्वारा न्याय दिलाने की प्रथा जो भारतवर्ष में शुरू से रही है वही यहां के लिये उपयुक्त है और इसलिये यह जो प्रस्ताव पेश हुआ है वह बहुत उपयुक्त है और हमारे प्रधानमंत्री पंडित नेहरू जी ने भी उसके उसूल को मान लिया है। मैं चाहूंगा कि अंग्रेजों ने जितने भी कानून इस देश के लिये बनाये हैं जैसे ताजीरात हिन्द, दीवानी हिन्द और माल के कानून वगैरह उन पर पूरा गौर किया जाय और समय की मांग को देखते हुए और देशवासियों की इच्छा का आदर करते हुए इन कानूनों को फिर से बनाया जाय अथवा संशोधित किया जाय जिससे जनता को कम से कम समय में और कम से कम खर्च में न्याय मिल सके। मैं इस प्रस्ताव में जो मांग की गयी है उसका पूरी तौर से समर्थन करता हूं।

**श्री आर० डी० मिश्र (जिला बुलन्दशहर)** : अध्यक्ष महोदय, मुझे आज बड़ी खुशी हुई कि जो यह प्रस्ताव है यह एक नान-आफिशल मेम्बर की तरफ से पेश किया गया है और हमारे नेता ने इस प्रस्ताव को मंजूर कर के अनुमति दी। हमारे देश में कानून इतने ज्यादा बढ़ गए हैं, इतने जल्द में संशोधन हो रहे हैं कि आज उन कानूनों का पता न तो अदालतों को है कि हमारे देश में क्या क्या कानून हैं और न ही बहुत से वकीलों को, सिवाय बहुत बड़े वकीलों के जिन के पास तमाम कानूनों की लाइब्रेरी मिल सकती है। तमाम देश के अन्दर जो मुफस्सिल कोर्टों के वकील हैं और जो अन्य लोग हैं उनको पता नहीं कि यह कानून क्या है और न ही उन के पास कोई लायब्रेरी है। जब कभी उन के पास कोई मुकद्दमे आते हैं तो वे वकील कहीं से किताबें मंगा कर पढ़ लेते हैं और इस तरह से अपना काम चलाते हैं। जजों को भी मालूम नहीं कि यह तमाम कानून क्या हैं और हाई कोर्ट्स वगैरह में तो सब जरूरी रिकार्ड होने की वजह से वहां पर सब कानून मौजूद हैं। लेकिन मुफसिल कोर्टों की अदालतों में कोई अच्छी लाइब्रेरी नहीं है। उन जजों को इन कानूनों का पता नहीं। इस लिए यह बहुत जरूरी हो जाता है कि उन को इन तमाम कानूनों का पता हो। मुझे पता है कि बहुत से ऐसे कानून हैं जो कि हाई कोर्टों ने अलट्रा वायरिस (अनियमित) ठहरा दिये हैं, लेकिन वह अभी तक हमारी स्टैट्यूट बुक पर मौजूद हैं। हमारे विधान के पास होने के बाद यह जरूरी हो जाता है कि वह तमाम कानून विधान के अनुसार बदल दिये जायें। लेकिन अभी तक वह तमाम कानून बदले नहीं गये और जब वह सुप्रीम कोर्ट और हाई कोर्ट के सामने जाते हैं तो वहां पर उन को अलट्रा वायरिस डिक्लेयर किया जाता है (अनियमित घोषित किया जाता है)। इन के अलट्रा वायरस डिक्लेयर हो जाने के बाद भी यह कोशिश नहीं की जाती कि उन कानूनों को कानून की दृष्टि से ठीक कर दिया जाय। आज हमारे देश में सब जगह एक ही कानून लागू है लेकिन अगर कानून की किताबों को देखें तो पता लगेगा कि एक ही कानून के मुताल्लिक हाई कोर्ट ने अलग अलग रूलिंगज दिये हैं। आज हाई कोर्टों के जजों की राय में इख्तिलाफ है। जरूरत इस बात की है कि एक कानून बना दिया जाय सारे देश के लिये। अगर एक जगह के लिये एक बात ठीक है तो दूसरी जगह के लिये भी वही ठीक होनी चाहिए। तो सब से बड़ी जरूरत आज देश के अन्दर इस बात की है कि कानून सही हों, ठीक हों, क्योंकि कानून एक ऐसी चीज है जो जनता को मालूम होना चाहिये। आप को वकील होने के नाते मालूम ही है कि कोई मुल्जिम इस बात का एतराज नहीं कर सकता कि मुझे यह कानून मालूम नहीं था। इसलिये यह जरूरी हो जाता है कि कानून इतने सीधे और साफ हों कि जनता को आम तौर पर मालूम हो कि क्या कानून हमारे देश में है और क्या जुर्म है और क्या जुर्म नहीं है। जब हमारे मुल्क के बड़े बड़े व्यक्तियों को, मैजिस्ट्रेटों को और आम वकीलों को तमाम कानून मालूम नहीं, उन की पेचीदगियां मालूम नहीं तो साधारण जनता को वे कैसे मालूम हो सकते हैं। यह बहुत बड़ी जरूरत थी इस देश की कि उन तमाम कानूनों को देखा जाय।

मुझे कुछ उम्मीद हुई थी यह देखकर कि क्रिमिनल प्रोसीजर कोड में संशोधन किये जा रहे हैं। लेकिन मुझे अफसोस है कि सिवाय दो चार बातों के जो इस संशोधन में अच्छी हैं और जिन के जरिये कुछ सहूलियतें दी गई हैं लेकिन जो होना चाहिये था वह नहीं हुआ। खैर कोई बात नहीं आगे हो जायगा। मुझे उम्मीद है इस ला कमीशन में अच्छे अच्छे ज्यूरिस्ट होंगे, अच्छे अच्छे जज होंगे और वह तमाम कानूनों को देख कर जो अच्छे कानून होंगे उन को स्टैट्यूट-बुक पर रखने की सिफारिश करेंगे और जो खराब होंगे उन को रद्द करने की सिफारिश करेंगे। यह राय मेरी ही नहीं है बल्कि सुप्रीम कोर्ट के जो आज कल चीफ जस्टिस श्री मेहर चन्द महाजन हैं उन की भी यही राय है। यह राय उनकी क्रिमिनल प्रोसीजर कोड के ऊपर मांगी गई थी और उन्होंने जो राय दी है

[Shri R. D. Misra]

यह सफ्ह २१४ पैरा ५ ग्रुप 'सी' में दर्ज हैं। पैरा ५ इस तरह हैं :

"5. The second point that I wish to emphasize is the multiplicity of statute law in this country. Statute law of a very intricate and complicated character is responsible for the present state of things. Our statute book was already over-burdened with laws when the British left; but during the five years of our independence our legislatures have produced myriads of statutes and our executive has produced rules and regulations which are very difficult to count. All these laws, whether relating to income-tax, estate duty, companies, trade marks, banking, contract, tort, are of a very complicated character and can only be administered by highly specialised machinery of judges and advocates. They are beyond the comprehension of the layman. It is impossible to design a simpler system than the present to administer such complicated laws. The solution of the problem lies more with the legislature than with the machinery of the system of administration of justice. In my humble opinion there should be an *ad hoc* reduction in the statute law that has been produced in this country *en masse*. Legislation is only justified to eradicate grave evils that prevail in a country but should not be resorted to on any pretext even in a welfare state. . . ."

**डा० काटजू** : क्या आप अपनी राय भी देंगे या दूसरों की राय ही पढ़ते जायंगे ?

**श्री आर० डी० मिश्र** : मेरी भी यही राय हैं।

"It is not necessary to have countless laws relating to every form of human activity. A society can only be considered civilized if its citizens are allowed without threat of law to behave as proper citizens and law is only enacted when it becomes absolutely necessary for maintaining a certain standard amongst its citizens. What has to be achieved by educating the society in various ways, the legislatures think, can be achieved by setting in motion the legislative machinery and by passing statutes, no matter whether those statutes will be observed or can even be carried out or there is a machinery for enforcing them. It is known to everybody that a number of laws that have been enacted and placed on the statute book are more observed in their breach than in their observance. What is the use of having such laws? There is neither machinery enough in the country to enforce them nor is there desire in any person to enforce them. I would therefore suggest that before undertaking any reform in the system of administration of justice the statute book of the country should be cleaned and only those laws which are considered absolutely essential for the society should be allowed to remain on the statute book and the rest of them scrapped and even those that are allowed to remain on the statute book should be made simple and easily intelligible. Everyone is supposed to know the law but it is a question how many really know it. Simplify your laws and the present system will work very nicely."

इसलिये इस ला कमीशन का बनना निहायत जरूरी हैं और मैं इस प्रस्ताव की ताईद करता हूं। अब तक हमें मालूम नहीं हैं कि क्या कानून हैं। मैं यहां पर अपने देश के प्राचीन मंत्रों को जो वेद में दिये हुअे हैं इस सम्बन्ध में पढ़कर सुनाना चाहता हूं :----

प्रातर्युजा विबोध्याशिवनावेह गच्छताम्
अस्य सोमस्य पीतये। ऋग् १/२२/१

[इस समता के फल अर्थात् न्याय का उपभोग करने के लिये मौलिक अधिकार तथा उनको कार्यान्वित कराने वाले न्याय-अधिकरण का ज्ञान प्राप्त करना चाहिये]

In order to enjoy (पीतये) this fruit of equality *i.e.* justice (अस्यसोमस्य) one must know (विबोध्य) the basis of the origin of political union *i.e.* Funda-

mental Rights ( प्रातर्युजा ) and the judicial Authority which provides remedies, civil and criminal, against their infringement (अश्विना) for their enforcement (इह गच्छताम् ).

इसलिये यह बहुत जरूरी है कि जो कुछ इस मन्त्र में आदेश दिया हुआ है उस पर अमल किया जाय और इसके लिये जो लाॅ कानून बनाने होंगे उनके बारे में हमें क्या करना चाहिये यह दूसरे पेज में दिया हुआ है जो इस प्रकार है :

> या सुरथा रथीतमोभा देवा दिविस्पृशा
>
> अश्विना ता हवामहे । ऋग् १/२२/२

[जो दोनों अच्छे न्यायाधीश तथा कुशल शास्त्रज्ञ हों उनको उच्च न्याय-अधिकरण का कार्य करने के लिये आह्वान करना चाहिये ।]

Invite (हवामहे) those (ता) who (या) be both (उभा) good judges (सुरथा good drivers of the carriage of justice) as well as distinguished jurists ( रथीतम ) for constituting the Supreme judicial Authority ( दिवि स्पृशा अश्विना).

Invite those judicial persons of high order who are the best drivers of judiciary system *i.e.*, both good judges as well as distinguished jurists.

Therefore we must have this Law Commission for the reform of our judicial system and for that we must invite the best judges and distinguished jurists of our nation.

उस के बाद तीसरे मंत्र में जो तीसरी बात लिखी गई है वह यह है :

> "या वां कशा मधुमत्यश्विना
>
> सूनृतावती तया यज्ञं मिमिक्षताम् । "
>
> ऋग् १/२२/३

कितने सुन्दर शब्द हैं ?

Whatever ( या ) decisions or recommendations (कशा ) the Supreme judicial authority (अश्विना)may utter or make (वां), relating to the judicial interpretations of laws (मधुमती), and rules governins righteous way of life ( सूनृतावती), they should be amalgamated with or form part of the law of the land (तया यज्ञं मिमिक्षताम् ).

जो मुल्क का कानून हो वह कैसा होना चाहिये ? उस के अन्दर जो बड़े बड़े ज्यूरिस्ट्स और जजेज हों उन के जो सुन्दर फैसले हों, जो कानून का सार हो और जिस से आदमी सन्मार्ग के रास्ते पर चल सके, ऐसा कानून बनना चाहिये । यह जो डाइरेक्टिव (आदेश) हम को दिया गया है यह हमारे वेद मंत्रों की बहुत बड़ी देन है । हमारे देश में ऐसे कानून नहीं बनते थे जैसे कि आज कल बनते हैं । हमारे यहां राइचिअसनेस (सत्य) का राज्य था, अगर हमारे यहां कोई चोरी करता था तो उस को भी सजा मिलती थी । ऋषियों की मिसालें मौजूद हैं, वह तक सजा से बच नहीं सकते थे । प्राचीन काल का चोरी के मुताल्लिक एक किस्सा है । एक ऋषि के यहां दूसरे ऋषि पहुंचे, उन को बहुत भूख लगी थी और जो दूसरे ऋषि थे वह कहीं संध्या में लगे हुए थे । वक्त खाने का हो गया था । इस पर उस ऋषि ने बागीचे में से कुछ फल तोड़ कर खा लिये । जब दूसरे ऋषि पूजा से फारिग हो कर आये तो उन्होंने खाना तैयार किया और तैयार करने के बाद पहले ऋषि से पूछा 'भाई आ कर खाना खा लो' । उन्होंने कहा कि मैं तो खा चुका । दूसरे ऋषि ने पूछा' क्या खाया ? उत्तर दिया आप के बागीचे में से फल तोड़ कर खा लिये । तब दूसरे ऋषि ने कहा : हैं ! तुम ने बिना मेरी आज्ञा के फल तोड़ कर खा लिये? यह तो चोरी का अपराध हो गया, तुम को इस का प्रायश्चित करना चाहिये । जब भी हमारे देश में कोई आदमी अपराध करता था तो वह उस का प्रायश्चित करता था । कोई पुलिस नहीं रहती थी, वह खुद धर्म-मार्ग पर चलते थे । दूसरे ऋषि ने चोरी करने वाले ऋषि से कहा कि तुम को चोरी का दंड पाने के लिये राज्य को

:? TO?

[श्री आर० डी० मिश्र]

अधिकारी के पास जाना होगा । जब तक राजा तुम को दंड नहीं देगा तब तक तुम इस अपराध से नहीं छूट सकते हो, इस के पाप से नहीं छूट सकते हो । चुनांचे वह राजा के पास गया और कहा कि मुझ से इस, इस तरह से चोरी हो गई है, इस लिये मुझ को सजा दो । राजा ने कहा कि आप को कैसे सजा दूं, आप तो महात्मा हैं । उस ऋषि ने लौट कर दूसरे ऋषि से कहा कि राजा इस प्रकार कहता है । दूसरे ऋषि ने इस पर कहा कि तुम जा कर राजा से कहो कि अगर तुम राजा रहना चाहते हो तो सजा देनी होगी । तुम को अपराधों के लिये सजा देने का अधिकार दिया गया है, अगर तुम दंड नहीं दे सकते तो गद्दी छोड़ो । हमारे देश में ऐसी मिसालें थीं । वह आदर्श हमारा हट गया, अब तो हम दूसरी तरफ को जा रहे हैं । जाब्ता फौजदारी में मैं ने कोशिश की कि गवाहों के बयान के आगे "ट्रूली" का लफ्ज बढ़ा दिया जाय ताकि गवाह तहकीकात में पुलिस अफसर के सामने सच्ची बात कहें, लेकिन वह "ट्रूली" का लफ्ज यहां हार गया । और मेरे मित्र रघुवीर सहाय ने अर्ज किया कि जाब्ता फौजदारी में लिखा है कि मुल्जिम झूठा बयान देगा तो उस पर मुकदमा नहीं चलाया जायेगा, यह चीज उस में से निकाल दी जाय । लेकिन इस झूठ को उस में से नहीं निकाला गया । झूठ की जीत हुई और ट्रूली की अर्थात् (सच्चाई की) हार हो गई । इसी तरह कम्पाउन्डेबल आफेन्स का मामला है । उस में क्या है ? चोरी करने के बाद राजीनामा, जायदाद बदनीयती से मुतकिल करने वाले अपराधों के लिये राजीनामा, यानी जो सोशल क्राइम्स थे उन सब में राजीनामा । कोई भी आदमी चाहे जो जुर्म करे, जुर्म करने वाला दबाव डाल कर या डलवा कर जिस के खिलाफ जुर्म किया गया है उस से राजीनामा कर सकता है । नतीजा यह होगा कि पचास जगह किसी ने चोरी की, एक जगह वह पकड़ा गया तो दूने पैसे मुद्दई को दिये और छूट कर आ गया । किसी औरत को छेड़ दिया, उस के मर्द को पैसे दे दिये और छूट कर आ गया । यह हमारे कानून की हालत हो रही है । जीत हो रही है चोरी की और दूसरे जुर्मों के करने वालों की । झूठ के लिये, या चोरी के लिये या चीटिंग के लिये । अब यह हो गया कि मुल्जिम मुद्दई को पैसे देकर राजीनामा कर ले । अब तक कानून इस की इजाजत नहीं देता था । अब तो सिर्फ डकैती और कत्ल के जुर्म ही बच गये हैं जिनमें राजीनामा नहीं हो सकता ।

**डा० काटजू :** वेदों में बेनिफिट आफ डाउट के लिये भी कुछ लिखा है ?

**श्री आर० डी० मिश्र :** वेदों में इस तरह की कोई बात नहीं थी । बेनिफिट आफ डाउट तो इंग्लिश ला में है । यह उसी जूरिस्प्रूडेन्स में है जिस को आप फालो करते रहे हैं और हिन्दुस्तान में ला रहे हैं ।

मोबाइल कोर्ट (चलती हुई अदालत) इंग्लैंड में होते थे, वह अब आप यहां कायम कर रहे हैं । यू० पी० में मोबाइल कोर्ट होते थे उनके संबंध में शिकायत होती थी, मोबाइल कोर्ट में न्याय नहीं होता था सब परेशान होते थे इसलिये वे बन्द किये गये । सब जानते थे कि मोवक्किलों को वकील नहीं मिलेंगे और जो मिलेंगे उनको बहुत पैसा देना होगा और सरकार को भी जजों और उनके अमले के सफर खर्च तथा मुलजिमों को लाने ले जाने और पुलिस का प्रबंध करने में ज्यादा खर्च करना पड़ेगा । नतीजा यह होगा कि लोग ज्यादा परेशान होंगे और न्याय पाने के लिये मुकदमे नहीं करेंगे । आपने मोबाइल कोर्ट्स कायम करना ठीक समझा । इस का भी आप तजुर्बा कर लीजिये कि कितना वह कामयाब होंगे ।

इस लिये मैं उम्मीद करता हूं कि जब ला कमीशन बनेगा वह हमारे देश की जरूरत और आदर्श के मुताबिक काम करेगा । सत्य की विजय के लिये जिस का आइडियल (आदर्श) हम ने अपने यहां बहुत पहले से रख रक्खा है वह कार्य करेगा । आज भी सत्य की उसूल है

उस के मुताबिक आप नहीं चल रहे हैं । अगर आप हमारी बात नहीं मानेंगे तो असत्य का बोलबाला रहेगा । हम ने जो 'सत्यमेव जयते' का आदर्श आइडियल बना रक्खा है उस से सत्य की विजय अन्त में जरूर होगी ऐसा मैं समझता हूं । इस जाब्ता फौजदारी तथा अन्य कानूनों की जांच के लिये ला कमीशन बनने की बात आ गई है वह बनेगा और हमारे देश के आदर्श के मुताबिक ऐसे सब कानून बनायेगा जिस में, कोई बेगुनाह सजा नहीं पावेगा, लेकिन मुजरिम बच कर न जाने पावेगा । अगर ऐसा कानून बन सका तो हमारे देश का आदर्श अच्छा बन सकेगा ।

इन शब्दों के साथ मैं इस ला कमीशन बनाने की बात को खुशामदीद कहता हूं, इस का स्वागत करता हूं और गवर्नमेन्ट से प्रार्थना करता हूं कि हमारे देश के आदर्श के मुताबिक अपने देश का कानून बनाये ।

**Shri Tek Chand** (Ambala-Simla): Mr. Chairman, I offer my hearty felicitations to the author of this Resolution and to the Government in accepting the Resolution. This Resolution was not one day too early. The necessity for the appointment of a Law Commission is imperative, not for the purpose of examining your laws and improving upon them, but also for the purpose of inviting science to come to the aid of law. The old vindictive attitude has always been there. If somebody were to ask: "What is the cure for crime?", the answer was: "Impose severe punishment. Put teeth into your laws." That doctrine has been exploded to be an old archaic theory no longer good enough. Punishment is no cure for crime. Prisons are the last place where certain types of criminals should be sent. The question is, that if you send a person to imprisonment, he becomes an embittered, worsened and hardened criminal. All that one may wish to teach him in the art of crime without detection he learn in your prisons. It used to be said by Sir Paul Vinogradoff a great jurist—and I was lucky to have him as my professor—that of all modes of punishment, imprisonment is the most unsatisfactory thing. It is a matter of regret that whereas we are getting every conceivable assistance from science in various walks of life, in the matter of justice, in the matter of punishments, science and we are far apart. I want that Government should have the assistance of criminologists and penologists who understand the things. In this matter it had a great part to play. The ancient laws of Rome have mothered the present European laws and incidentally some of our. In the 18th century in Italy there were great jurists, jurists of the modern type. There was the school of Lombroso and there were many people who came under his influence. So far as the theory of punishment is concerned, credit is due to Cesare—Lombroso who revolutionised the whole outlook.

**Dr. Katju:** What is the state of crime in Italy? I suppose there are no crimes there?

**Shri Tek Chand:** The state of crimes in Italy is pretty bad. But, because Italy produced jurists will you refuse to borrow a leaf from a jurist; will you rather go to the criminal? It is amazing; because in Italy there are lots of crimes therefore, forget what the jurists have said. Of the several principles that the jurists laid down—I think it was Beltrani-Scalio who in one sentence laid down the maxim and said: *"Studiare Il Delinquente Ecco Il Besogno"*. (Study the Criminal. That is the requirement). It is the individualisation of the criminal. When a Magistrate imposes punishment, does he care to find out what are the antecedents of the criminal; what are his domestic conditions, what is his economic condition, what is his environment? No. What led him to commit the crime, his previous career, his motives, his temptations, all these are matters which ought to be studied. They are simply scoffed at by those who think that punishment will cure a criminal. Therefore, I suggest that from this point of view, the Law Commission ought to examine why there are

[Shri Tek Chand]

criminals born and why they persist in criminality, what is the contribution of the society to the making of a criminal, what is the contribution of our jails towards the making of hardened offenders and increasing crimes. So far as the investigation of crime is concerned, there is much left to be desired. Again I want to see in my country that the police stations are equipped with scientists, serologists, with people who are experts in finding out thumb impressions, people who can reconstruct and find out who the criminal is, from the little little things and little little marks that he has left. In France, in England and in America there are cases—I wish if I could dispel my hon. friend's ignorance in the short time that I have at my disposal—where from finger nail, from human hair, from thumb impressions, the detective agency has been able to lay its hands on the criminal and it has been perfected to a great extent. What is our process? Extorting of confessions, third degree methods, frightening him, getting hold of his other relations in the hope that someone will come and tell the truth; torture is the usual method. It is amazing that our ignorance seems to be colossal and abysmel? It is time that we realise it and there is nothing to be ashamed of and these things are matters for study. I want to see that practically with every police station, there should be station wagon, there should be mobile laboratories, as it were. A proper camera man should go to the spot immediately and we should have higher standards of proof. If you want to curb criminals or crime or criminal propensities, a criminal must be made to realise that it is not a profitable business to pursue crime, and that is only possible when our detective agency, or our investigating agency, is improved Therefore, so far as crime is concerned, I feel that it has to be individaulised, it has to be humanised and its causes have to be found; we need criminologists. It is perhaps an exaggeration to say but there is a great deal of truth in the saying, that one policeman is equal to two jailers and one street lamp is equal to two policemen. Endeavour should be made to study this subject. This subject is so vast and so fascinating that one is tempted to say....

**Mr. Chairman:** I hope the hon. Member will resist the temptation.

**Shri Tek Chand:** The other ailment from which we are suffering is overdose of law. Without meaning any disrespect to anybody, I would say that the draftsmanship of our laws is of the poorest kind imaginable in the country. Hardly the ink is dry on your Act, then follows a long array of correction slips and one cannot keep pace with the procession of correction slips, with the amendments, with the rules and bye laws. It is said that everybody is supposed to know law. The privilege of ignorance belongs to the Judges and that is why there are appellate Tribunals to rectify the mistakes of the original Courts. Whether he is a *dhobi* or a carpenter or the poorest man, he is supposed to know law, but not the Magistrate, and that is why we have the Sessions Judges to correct the mistakes of the Magistrates, the High Courts to correct the Sessions Judges and the Supreme Court to correct the High Courts.

**Shri Raghavachari:** And Parliament to correct the Supreme Court.

**Shri Tek Chand:** Yes.

**Dr. Katju:** Is there any presumption that the Judge knows law?

**Shri Tek Chand:** I believe that the presumption is that the Judge does not know law. If he knew it, there would be no appellate Tribunals. and you have got a plethora of appellate Tribunals. Therefore, the only presumption from this is that the Judge does not know law and, therefore, there is a corrective administered every time a Judge makes a mistake. Even in the High Court, if one Judge makes a mistake, the case goes before a Bench of two and if two

[Shri Tek Chand]

Judges make a mistake, it goes before a Full Bench where it is corrected. There is progressive rectification of mistakes throughout. I am not scoffing at it. It is as it should be. Nevertheless, so long as you have that presumption that everybody is supposed to know law consequence will be confusion. Your laws are so prolific and their multiplicity is so terrible that they will not fare badly with rabbits so far as prolificity is concerned.

Then, again, the case law of our country is the greatest menace to law and there is such an abundant plethora of case law that for every little matter, there is a case law and precedent followed. Judge-made law is a terrible head-ache for the lawyer as well as the litigant. The Law Commission should see that only those judical dicta and precedents are really immortalised which deserve immortality and not anything and every thing in print. There are the law reporting agencies turning out in print tremendous multiplicity of judge-made laws. Today, the price of a lawyer's library is astronomical and this is the misfortune that our country suffers from. It is being felt and realised elsewhere, but I wonder if they have been able to think of some remedies. I, therefore, think that there are several aspects, the problem is tremendous and some kind of experimentation or exploration is necessary in every walk of our legal system. I in agreement with the hon. lady Member who preceded me when she said that Law Commission should be manned not only by jurists, not only by scientists but also by others who can put the point of view of those who come into conflict with law or who come into contact with law. Everybody's viewpoint is worthy of examination at this time and it appears that even the talk of science being harnessed to law seems to be something strange, something impossible. Therefore, I have great pleasure in endorsing the Resolution that is before the House

**Shri Keshavaiengar** (Banglore North): I shall successfully resist the temptation to make any long speech. Just one minute may be given to me. With the permission of the Chair I just want to say a few words.

**Dr. Katju:** How can you say a few words in one minute? You need ten minutes.

**Shri Keshaviengar:** I shall finish in one minute. I rise to congratutale my hon. friend for having been lucky in having this Resolution drawn in the lots and to have the opportunity to place it before the House.

**Shri A. M. Thomas:** Provincialism.

**Shri Keshaviengar:** No provincialism. I am also equally thankful for our beloved leader in having accepted the principle of this Resolution. There are no two opinions on the volume of statutes now in existence in our country. They are multifarious, and intricate and complicated and they badly require a review by a Law Commission. We are only concerned now with the personnel of the Law Commission. I entirely agree with the lady Member of this House that we need not be frightened at the presence of experienced lawyers on the panel of the commission. In order to investigate the practical aspects of law, it is necessary to have at least a few representatives of experienced lawyers on the panel. The commission should also consist of representatives of every aspect of our society, as well. I would like to make one suggestion here. Many of our statutes take their origin in the British administration and none can dispute the fact that they had their own motives behind the promulgation of those statutes. Every one of their administrative set-up that we have inherited from them comprises enormous amount of centralisation. I am one of those who feel that a very effective decentralisation of dispensation of justice is the only way of carrying justice to the homes of our countrymen. With these few words, I whole, heartedly support the proposition and I expect that the Government will

[Shri Keshaviengar.]

very soon, without wasting much time, place before the House a Bill for the appointment of a Law Commission.

**Dr. Katju:** After the Prime Minister's statement that the principle of the resolution is accepted, not much need be said but the topic is a very complicated one and it would have become apparent from the speeches which have been delivered that some of them have been inconsistent with each other. The scope of the Law Commission has to be carefully examined. One part of the speech which we have heard just now from my hon. friend, Shri Tek Chand, would seem to imply that the function of the Law Commission is to function as a Prison Reform Commission, as to how the prisoners are to be reformed, and that it has also to become an investigating commission—how crimes are to be investigated. The topic is very complicated because the House must bear in mind the fundamental thing. Laws, under the British system of development, have been judge-made laws because they were mostly uncodified and being uncodified, there was ample opportunity for judges to develop the law according to their own notions of fairplay, equity, justice and good conscience from generation to generation and from century to century. Take India, for instance. Of course the British judges made the law, but they had no personal motives behind it. There was no question of any imperialism behind it. But you take any law report, of say, the year 1811 or 1800 on a topic of Hindu law and take a law book of 1950, and you find that during that period of 150 years, it is all judge-made law. They are the *Manus*, they are the commentators, they are the translators, and out of those keeping in view the justice as they saw it, the social needs of the times, the changing circumstances, the changing needs of society, the Judges endeavoured to develop the law of land. The moment you come to a codified law, difficulties begin. It is no use blaming Judges becuase though Parliament enacts laws, Parliament itself does not change the law, does not alter the law, for every Judge is bound by the oath of his office to carry out his duty and the Judge may say that this law has now become completely outmoded that instead of being a just law it has become an unjust law, and Parliament is bound to give effect to it. One difficulty that we have and which we ought to avoid—and I suppose it will be the function of the law Commission to avoid—is that we have got in India about 27 High Courts and we have got all-India codes—civil Code, Indian Penal Code, Evidence Act, Contract Act, etc. A section of the law is construed in one way by the Judges of the Calcutta High Court; it is construed in an absolutely opposite way by the judges of the Bombay High Court or the Judges of the Mysore High Court. The number has increased—Part A States, Part B States, and the Judicial Commissioner of Tripura is the 'High Court' there, so far as he is concerned. Now, so long as a judicial pronouncement is not rectified or overruled by an appeal to the Supreme Court, it stands. The view taken by the Calcutta High Court is binding on all the people subject to the jurisdiction of the Calcutta High Court, and similarly the views of the Bombay High Court are binding on the people living in the Bombay State, and you have the curious anomaly of having the same law. The law is one and the same which has been enacted by Parliament and which is being construed in two different manners by two different sets of Judges. If one litigant is adventurous enough to take his appeal to the Supreme Court and the Supreme Court gets an opportunity of defining what the law is, in the view of the Supreme Court, these divergences continue. It is a question of language. Different people look at it differently and put a different interpretation on the same language in different ways. I suppose one of the functions of the Law Commission would be to have a periodical examination of all those all India codes. I am only suggesting it. The Law Commission may look at the substance of the law and look up and say, well, section 10 of the Indian Contract Act means this, but having regard to the changing circumstances of society and the demands of social justice, it ought to be amended. That is a clear recommendation that the law ought to be amended, but at the same time, they may say, "It is very funny thing; section 10 has been construed in one way by one Court, in another way by another Court and in a third way by a third Court. These things go on." Therefore, the Law Commission may decide to do a periodical examination of say, the Indian Contract Act. Supposing a period of ten years is fixed, the Law Commission may decide that having divided our existing laws into blocks, one block shall be examined in the year 1955, another block in 1956, a third block in 1957 and so on. Thus they may exhaust all the blocks in ten years and then begin again. The result would be that the terms of every law would come in for a close examination with a view to the removal of all those discrepancies and divergences of opinion every ten years, and the Commission may then sit down and say, "We are going to recommend to Government for submission to Parliament that the law should be simplified in this manner. These doubts and difficulties should be removed and further, that it may be changed in this way, in keeping with the demands of social justice and welfare of the State and so on and so forth. Please remember that it is a very difficult topic. It cannot be removed by vague suggestions. Immediately on the appointment of the Law Commission, it will be faced with difficulties. One difficulty, and that a tremendous difficulty, will be what I said just now. We may demand that the law must be codified and must be put in terms of definite phrases. If you do it then comes the question of interpretation. Secondly, you have this periodical review because there is not only one Court. You may have this thing in the olden days. In olden days the British people had it. Even now we have got it. There is an article in the Constitution which authorises the President to submit a particular question for the opinion of the Supreme Court. Unless you have it, each High Court goes its own way. Then the difficulties arise as to what should be the scope of the working of the Law Commission. If you say that they should look after the welfare of the criminals, juvenile delinquents, neglected children, you may thereby impose a burden upon the Commission which no one can carry. It should be restricted to see that our laws are wellmade, properly explained and properly interpreted and finally, apart from the Supreme Court, they should be interpreted and enforced in a uniform manner. Otherwise, it seems to me to be almost tragic. If I have got a claim on a promissory note or a bond and I go to the Bombay Court, my suit is dismissed on the ground that it is barred by limitation. If I am lucky enough to go and file a suit in the Calcutta High Court on the same bond, the Calcutta Judges say; 'Your suit is within time' and they give me a decree. These kind of contradictions are intolerable and the first thing the Law Commission must attend to is this. The setting up of a Law Commission has been under consideration for a large number of years.

5 P.M.

Mr. Chatterjee referred to the Rankin Committee. There have been many committees but every committee has dealt with the procedural part of it. The Rankin Committee said: 'Why these delays?'. A Law Commission is not concerned with that. My respectful submission is that it was a procedural committee. You must have more Judges; you must have more Magistrates; you must see that the procedure is speedy and you must also have a sense of better professional conduct in the lawyers.

[Dr. Katju]

My hon. friend, Shri Misra, was reading out something about the *Vedas*. It uplifted me. There were no lawyers in those days. (*Interruptions.*) Where were the criminals who would face the crime? (*Interruptions.*)

**Mr. Chairman:** You all pleaded guilty when you were before the Courts.

**Dr. Katju:** For the last fifteen days in this House, Member after Member rose in his seat and spoke that a guilty person should not be asked a single question which was incriminatory. Nothing should be done to induce him to make a single incriminatory statement. What is an incriminatory statement? An incriminatory statement is a statement by a guilty person which leads to the conclusion that he admits doing the wrong thing. But every Member here is most anxious that he should not be compelled to say so. Somebody said that the criminal should stand in the dock dumb. Do not compel him to say 'My darling'. Do not compel him to say: "I looked at such and such a woman with greedy eyes." (*Interruptions.*) I shall bring these observations to an end.

I think the hon. Mover of this Resolution has to be congratulated because he has drawn pointed attention to a very important topic and he has earned, I submit, the gratitude of all of us. The Prime Minister has, on behalf of the Government, accepted the principle of the Resolution. I request the hon. Mover to consider all these and withdraw the Resolution and I can really say that even within a few months action will be taken which will satisfy the country.

**Mr. Chairman:** Does the hon. Member want to proceed further with his Resolution?

**Shri Thimmaiah:** There are no two opinions about the constitution of the Law Commission.

**Mr. Chairman:** I am only asking him whether he wants to proceed further and I should put the Resolution to the vote of the House.

**Dr. Katju:** He wants to withdraw.

**Shri Thimmaiah:** In view of the assurance given by the hon. Prime Minister and the Home Minister, I wish to withdraw my Resolution.

**Mr. Chairman:** Does the hon. Member have the leave of the House to withdraw his Resolution?

**Hon. Members:** Yes.

*The Resolution was, by leave withdrawn.*

**Mr. Chairman:** The Resolution is, by leave, withdrawn and the amendments do not arise.

## RESOLUTION RE: STATUTORY BODY TO SUPERVISE AND CONTROL GOVERNMENT INDUSTRIAL UNDERTAKINGS

**Shri Raghavachari** (Penukonda): There are just a few minutes and I wish to start with the Resolution. I beg to move:

> "This House is of opinion that Government should immediately set up a Statutory Body to exercise general supervision and control of such industries where the Government has whole or substantial interest, either financial or otherwise."

At the outset, I wish to make it perfectly clear that the purpose of this Resolution is not to try to convince the Government or the House or canvass arguments in support of it because I find as a Member of this House, on an earlier occasion about a year ago when resolution moved by Dr. Lanka Sundaram, relating to this matter, in a way, was discussed on the floor of this House, the Finance Minister made certain observations in respect of this matter. He appears to my mind to have practically conceded the case for such an examination. In his own language, the Finance Minister put it. Steps are contemplated in good time. It has been God's good time. We do not know when that good time comes.

He undertook or rather made a statement that the Government are also contemplating some measures in the same directions; as I submitted, 'in good time' something will be done. Therefore, I feel that there is not much need for many elaborate arguments in its support.

Apart from that, now that it has come as a Resolution to be discussed before this House, I would submit that in the peculiar circumstances in which our country is situated in the modern set-up as we are today, there is considerable need for, not only the careful husbanding of the particular industries that the Government has already started or is a partner in, but there is also, I feel, great need for expanding further industries. In the modern days, when a country has become independent, it is absolutely essential that it must so manage its affairs that it must always be in a position to face and brave the whole world. As we are seeing, the international atmosphere in the whole world is always grouping itself into two all over, almost to a point of warring. They have not begun; but it is progressing in that direction, one suspecting the other, and one always apprehending some danger to itself. Therefore, we have these theories of peaceful co-existence, peace in the world, and such principles for statesmen.

**Shri S. N. Das** (Darbhanga Central): There is no quorum in the House.

**Mr. Chairman:** It is already nearing 5.15. There is no likelihood of quorum being made up. There are only two minutes left. I adjourn the House to Monday, 11 A.M.

*The Lok Sabha then adjourned till Eleven of the Clock on Monday, the 6th December, 1954.*

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